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ELECTRIC GOLF CARS FROM POLAND

Determination of No Threat of Material Injury in Investigation No. AA1921-147A (Review) Under Section 751 of the Tariff Act of 1930, Together With the Information Obtained in the Investigation

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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CONTENTS

	Page
Determination	1
Statement of reasons of Chairman Catherine Bedell and Commissioner George M. Moore	3
Statement of reasons of Vice Chairman Alberger and Commissioner Michael J. Calhoun	10
Views of Commissioner Paula Stern	21
Information obtained in the investigation:	
Introduction	A-1
The product:	
Description and uses	A-1
U.S. tariff treatment	A-3
Nature and extent of sales at LTFV	A-4
U.S. market and apparent consumption	A-5
The domestic industry:	
U.S. producers	A-7
U.S. importers	A-10
Channels of distribution	A-10
Foreign producers	A-13
The question of injury or likelihood thereof:	
U.S. production, producers' sales and leases, and exports	A-14
Capacity and capacity utilization	A-16
U.S. employment	A-18
U.S. producers' inventories	A-21
Financial performance of U.S. producers	A-23
The question of the causal relationship between electric golf cars from Poland and the likelihood of injury:	
U.S. imports and market penetration of imports	A-25
Prices	A-28
Lost Sales	A-39
Appendix A. Notice of Commission's investigation and hearing	A-43
Appendix B. Notice of Commission's receipt of application for review of determination of injury and request for public comments	A-47
Appendix C. Letter from U.S. Department of Commerce	A-51

Figures

1. 3-wheel electric golf cars: Lowest net unit prices received, by quarters, 1977-79	A-33
2. 3-wheel electric golf cars: Quantities sold at lowest net unit prices, by quarters, 1977-79	A-34
3. 4-wheel electric golf cars: Lowest net unit prices received, by quarters, 1977-79	A-35
4. 4-wheel electric golf cars: Quantities sold at lowest net unit prices, by quarters, 1977-79	A-36
5. 3-wheel gas golf cars: Lowest net unit prices, by quarters, 1977-79	A-37
6. 3-wheel gas golf cars: Quantities sold at lowest net unit prices, by quarters, 1977-79	A-38

CONTENTS

Page

Tables

1. Golf cars: Apparent U.S. consumption, by types of cars, 1971-79-- A-6
2. Golf cars, electric and gas: U.S. production, by firms, 1971-79---------- A-8
3. Golf cars: U.S. producers' sales to end users and to distributors, by types, 1977-79---------- A-11
4. Golf cars: U.S. production, by types and firms, 1971-79---------- A-15
5. Golf cars: U.S. producers, domestic sales and leases, imports for consumption, and apparent U.S. consumption, by types of cars, 1971-79---------- A-17
6. Golf cars: U.S. exports, by types, 1971-79---------- A-18
7. Golf cars, electric and gas: U.S production, capacity, and capacity utilization, by firms, 1971-79---------- A-19
8. Average number of employees in U.S. establishments producing golf cars, total and all production and related workers producing golf cars, and wages paid to and man-hours worked by all production and related workers by firms, 1975-79---------- A-20
9. Average number of production and related workers in U.S. establishments producing golf cars, and wages paid to and man-hours worked by all production and related workers producing golf cars, by types of cars and firms, 1975-79---------- A-22
10. Golf cars: U.S. producers' inventories, by types, as of Dec. 31, 1975-79---------- A-23
11. Profit-and-loss experience of U.S. producers of electric and gas golf cars on their golf car operations, 1971-79---------- A-24
12. Profit-and-loss experience of selected U.S. producers of electric and gas golf cars on their gas and electric golf car operations, by firms, 1975-79---------- A-26
13. Golf cars: U.S. imports for consumption, by countries and types, 1971-79---------- A-27
14. 3-wheel electric golf cars: Lowest net unit prices received and quantities sold at that price, by quarters, 1977-79---------- A-30
15. 4-wheel electric golf cars: Lowest net unit prices received and quantities sold at that price, by quarters, 1977-79---------- A-31
16. 3-wheel gas golf cars: Lowest net unit prices received and quantities sold at that price, by quarters, 1977-79---------- A-32
17. Golf cars: * * * allegations of lost sales in which similar products were offered, by types of car, 1976-79---------- A-40

Note:--Information which would disclose confidential operations of individual concerns may not be published and therefore has been deleted from this report. Deletions are indicated by asterisks.

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

Investigation No. AA1921-147A (Review)

ELECTRIC GOLF CARS FROM POLAND

Determination

On the basis of the record developed in this investigation No. AA1921-147A (Review), the Commission 1/ determined pursuant to section 751 of the Tariff Act of 1930, that changed circumstances exist which indicate that an industry in the United States would not be threatened with material injury if the antidumping finding concerning electric golf cars from Poland were revoked.

Background

On February 5, 1980, the U.S. International Trade Commission instituted investigation No. AA1921-147A under section 751 of the Tariff Act of 1930 by publishing notice in the Federal Register (45 F.R. 9829). The purpose of the investigation is to determine whether changed circumstances exist which indicate that an industry in the United States would not be threatened with material injury if the antidumping finding concerning electric golf cars from Poland were revoked.

On September 16, 1975, the Commission determined by majority vote that an industry in the United States was being injured by reason of the importation of electric golf cars from Poland that were being, or were likely to be sold at less than fair value within the meaning of the

1/ The determinations of Chairman Bedell and Commissioners Moore and Stern were as noted above. Commissioner Moore made a negative determination in the 1975 case involving golf cars imported from Poland. Although Commissioner Moore finds that circumstances have changed for the domestic industry since 1975, he reaffirms his earlier determination by finding that the domestic industry is not threatened with material injury by reason of imports sold or likely to be sold at less than fair value. Vice Chairman Alberger determined that changed circumstances exist and an industry in the United States would not be threatened with material injury if the antidumping finding concerning electric golf cars from Poland were revoked. Commissioner Calhoun determined that an industry in the United States would not be threatened with material injury if the dumping finding concerning golf cars from Poland were revoked.

Antidumping Act, 1921. The Department of Treasury published a finding of dumping in the Federal Register on November 18, 1975 (40 F.R. 53383). On August 6, 1979, an application for review of the Commission's prior determination was filed with the Commission by Melex, USA, in accordance with the then extant Rules. Melex, USA, is a wholly owned subsidiary of Pezetel, the Polish state-trading organization for the subject golf cars, and has been the exclusive importer of the product since 1975.

On October 2, 1979, the Commission published a notice in the Federal Register inviting public comment on the question of whether the Commission should conduct a review of the determination. Comments were received from 5 interested parties. After considering the application and comments, the Commission voted on January 30, 1980, to institute an investigation pursuant to section 751 of the Tariff Act of 1930 and section 207.45 of the Rules. In connection with the investigation, a public hearing was held on April 16, 1980. According the the Rules of Practice and Proceedure, the Commission must render its determination within 120 days after institution, or in this case, by May 28, 1980.

In arriving at its determination, the Commission has given due consideration to the information provided by the administering authority, to all written submissions from interested parties, and information adduced at the hearing and obtained by the Commission's staff from questionnaires, documented personal interviews, and other sources, all of which have been placed on the administrative record of this investigation.

STATEMENT OF REASONS OF CHAIRMAN CATHERINE BEDELL
AND COMMISSIONER GEORGE M. MOORE

On February 5, 1980, the U.S. International Trade Commission instituted review investigation No. AA1921-147A under section 751 of the Tariff Act of 1930. The purpose of the investigation is to determine whether changed circumstances exist which indicate that an industry in the United States would not be threatened with material injury if the antidumping finding concerning electric golf cars from Poland were revoked.

The domestic industry

In this investigation, we have concluded that the appropriate domestic industry against which the threat of material injury from imports of electric golf cars from Poland should be measured consists of the facilities in the United States producing both gas and electric golf cars. Currently there are 12 known golf car producers in the United States.

Our finding concerning the composition of the appropriate domestic industry is based on section 771(4) of the Tariff Act of 1930 (19 U.S.C. 1677(4)). Section 771(4)(A) defines the term "industry" to mean the domestic producers of a "like product," which is in turn defined in section 771(10) as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title."

Less than-fair-value sales

On June 11, 1975, the Department of the Treasury determined that electric golf cars from Poland were being sold at less than fair value (LTFV). In its investigation, Treasury examined 100 percent of the golf car entries from Poland during a 10-month period from December 1, 1973, to September 30, 1974.

Weighted average dumping margins of 20.9 percent and 21.0 percent were found for 3 and 4-wheel cars, respectively. On September 16, 1975, the Commission determined that an industry in the United States was being injured by these LTFV sales of golf cars from Poland. 1/ After this determination was made, U.S. customs officials liquidated golf car entries from Poland for the period March 1975-July 1976. During this period, the average dumping margin for 3- and 4-wheel cars was only 3.5 percent. Because of difficulties in assessing the foreign market value of Polish golf cars, no entries have been liquidated since 1976. However, according to officials of the U.S. Department of Commerce, which became the administering authority in antidumping proceedings on January 1, 1980, there have apparently been no dumping margins on sales made subsequent to September 1978. 2/

The competitive condition of the domestic industry

With respect to the question of the competitive condition of the domestic industry, we find it appropriate to consider those factors set forth in section 771 of the Tariff Act of 1930, namely, among other factors, the volume of imports of the merchandise subject to the investigation, the price effects of such imports, and the impact of such imports on the affected U.S. industry.

The volume of imports.--U.S. imports of golf cars from Poland declined from 9,982 units in 1975 to 5,220 units in 1979, or by 48 percent. 3/ The ratio of imports from Poland to apparent U.S. consumption of golf cars declined by an even greater percentage over the same period.

1/ In this investigation, Commissioner Moore determined that an industry in the United States was not being injured and was not likely to be injured.

2/ See May 9, 1980, letter addressed to Honorable Catherine Bedell, Chairman, International Trade Commission signed by John D. Greenwald, Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce. A copy of the letter is presented in appendix C of the report.

3/ See p. A-27 of the report.

Price effects of imports.--The price information collected by the Commission for 1977-79 indicates that the price paid for Melex cars by their dealers and ditributors was consistently lower than the weighted average prices of U.S. producers' golf cars to their distributors and dealers. In 1977, the price of the Melex 3-wheel car was 11 percent below the weighted average unit price of domestic 3-wheel electric cars; by 1979, the margin of underselling increased to 13 percent. 1/ In 1977, the price of the Melex 4-wheel car was 7 percent below the weighted average unit price of domestic 4-wheel electric cars by 1979; the margin of underselling had increased to 11 percent. 2/ According to officials of the Department of Commerce, the margins of underselling since September 1978 were not the result of dumping.

It should also be noted that the margins of underselling do not reflect the entire competitive situation. The price data used in these comparisons do not reflect either the differing levels of support services (e.g., marketing services, financial assistance, inventory control plans, and training programs) or the differing warranties offered by U.S. producers and Melex, USA, the exclusive importer of golf cars from Poland, to their dealers and distributors. If these factors were considered, we believe the apparent competitive advantage of the imported car would be reduced. Moreover, it appears that the price of the imported product has had a minimal effect on U.S. producers' prices. During the period 1977-79, U.S. producers' weighted average prices for golf cars increased at a faster rate than prices for Melex cars. U.S. producers' weighted average prices for 3- and 4-wheel electric cars increased by 12.8 percent and 17.2 percent, respectively, from 1977 to

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1/ See p. A-29 of the report.
2/ Ibid.

1979, whereas the weighted average prices for Melex 3- and 4-wheel cars increased by only 11.3 and 11.2 percent, respectively. 1/

Impact of imports on the affected industry.--Section 771 of the act instructs the Commission to examine, with respect to the impact of imports on the domestic industry, all relevant economic factors including, but not limited to, actual and potential decline in output, sales, market share, profits, productivity, return on investments, utilization of capacity, factors affecting domestic prices, and actual and negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment. The Commission received questionnaire responses on the above-mentioned factors from firms believed to account for about 95 percent of production and shipments of golf cars.

U.S. production of golf cars increased from 45,000 units in 1975 to 53,000 units in 1979, or by 18 percent. 2/ Similarly, U.S. producers' domestic sales and leases of golf cars increased from 44,000 units in 1975 to 51,000 units in 1979, or by 16 percent. 3/ In addition, although they have been at relatively low levels, U.S. producers' exports of golf cars more than doubled. The absolute quantity of U.S. producers' inventories of golf cars has increased over the period under consideration, however, inventory levels have been low. The ratio of inventories to sales increased only slightly, from 2.5 percent in 1975 to 3.5 percent in 1979. 4/

Capacity utilization for the golf car industry increased substantially, rising by 37 percent from 1975 to 1979. 5/ Moreover, during the same period, a leading U.S. producer of electric cars increased its capacity by 50 percent, and two new producers of electric golf cars entered the market.

1/ See p. A-39 of the report.
2/ See p. A- 8 of the report.
3/ See p. A-17 of the report.
4/ See p. A-22 of the report.
5/ See p. A-19 of the report.

Available data on employment in the golf car industry is somewhat sketchy for 1975-77; thus, the resulting increases for the period under consideration are overstated. However, the trends are nonetheless clearly positive for all factors relating to employment. During 1975-79, the available data indicate that the average number of all employees in U.S. establishments producing golf cars increased by over 80 percent, while the average number of all production and related workers increased by over 150 percent. 1/ In addition, aggregate wages paid to, and man-hours worked by, all production and related workers increased by over 30 percent. 2/

During 1975-79, U.S. golf car producers' net operating profits increased by over 190 percent, while the ratio of net operating profit to net sales increased by over 45 percent. 3/ In addition, despite sharply increasing inflation rates, the ratio of the cost of goods sold to net sales declined slightly. It should also be noted that during this period, the problems experienced by Harley-Davidson during 1975-77 in attempting to introduce a new electric golf car has had a continuing negative impact on the aggregate figures for the golf car industry's profitability. 4/

Only one U.S. golf car producer has made specific allegations of sales or leases lost to Melex cars because of price or the terms of the lease. However, in 25 of the 42 instances where the staff could confirm that a firm did in fact purchase or lease Melex cars during 1976-79, the firms stated that price was not their primary consideration in selecting Melex cars over the comparable domestic models. Of these firms, 18 indicated that their decisions were based primarily on the quality of the imported car and the service provided by the Melex dealer. Price was not mentioned as a factor. The

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1/ See p. A-20 of the report.
2/ Ibid.
3/ See p. A-24 of the report.
4/ See p. A-25 of the report.

remaining seven firms indicated that while the price of the Melex car was a factor affecting their decisions, the quality of the car and the service provided were at least as important a consideration as price, if not more so. 1/

Likelihood of material by reason of LTFV imports from Poland

As previously noted, the condition of the U.S. golf car industry has improved substantially since the Commission's earlier determination of injury by reason of LTFV imports of electric golf cars from Poland, and this improvement occurred despite sustained competition with the lower-priced Melex cars.

There are also a number of considerations which diminish the likelihood of material injury by reason of imports which may be sold at LTFV in the future. While the price paid for Melex cars has been consistently lower than the weighted average prices paid for the comparable domestic cars, there have apparently been no dumping margins on the imported product since September 1978. Thus, Pezetel, the Polish state-trading organization for golf cars, has demonstrated that it is able to undersell domestic producers without resorting to sales at less than fair value. Moreover, in its attempts to verify allegations of lost sales, the staff has also confirmed that a significant segment of the golf car market is not price sensitive. In addition, the price paid for Melex cars f.o.b. Poland typically represents less than 50 percent of the final price of the golf car to the end user. 2/ Thus, it is clear that Pezetel has little incentive to resume selling Melex cars at less than fair value. Melex, USA, has also given the Commission assurances that its annual

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1/ See p. A-41 of the report.
2/ See transcript of Apr. 16, 1980, hearing at p. 58.

imports of golf cars from Poland will not exceed an average of 8,000 cars through 1985, and that Melex, USA, will not knowingly sell its product for less than "foreign market value" under the regulation for determining foreign market value. 1/ According to officials of Melex, U.S.A., the WSK factory where Melex Cars are produced has an annual production capacity of 10,000 golf years. This was also the production capacity which was approved by the U.S. customs officials and used in the Spanish cost study. 2/ Assuming that apparent U.S. golf car consumption during this period remains relatively unchanged from the 1979 levels, the assurance on the volume of imports effectively limits the subject imports' share of the U.S. market to a level lower than the average market share held by Melex cars during 1975-79. If the Poles were to maximize their capacity, the import's share of the U.S. market would only be slightly higher than the average market share for 1975-79. Thus, the possibility of a sudden influx of imports from Poland is minimized.

Conclusion

After considering the information herein discussed, Chairman Bedell concludes that changed circumstances exist which indicate that an industry in the United States would not be threatened with material injury if the finding of dumping concerning electric golf cars from Poland were revoked.

Commissioner Moore concludes that changed circumstances, as well as circumstances existing at the time of the earlier investigation, support a determination that an industry in the United States would not be threatened with material injury if the finding of dumping concerning electric golf cars from Poland were revoked.

1/ See transcript of Apr. 16, 1980, hearing at p. 33.
2/ See U.S. customs service's verification of the factors of production used in the manufacture of golf cars in Poland, section B (7).

STATEMENT OF REASONS OF VICE CHAIRMAN BILL ALBERGER AND COMMISSIONER MICHAEL J. CALHOUN

This review proceeding is the first to come before the Commission under the new section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)). Section 751(b) authorizes the Commission, under certain circumstances, to review final material injury determinations. Similar authority was exercised by the Commission under its regulations before the enactment of the Trade Agreements Act of 1979. Upon a careful reading of section 751, the legislative history and other relevant materials, and in comparison with past Commission review determinations, it seems clear that this new provision is not merely an enactment into law of existing Commission practice. Thus, new questions of statutory interpretation are presented in this proceeding.

On August 6, 1979, before the effective date of Title VII of the Tariff Act of 1930, Melex, U.S.A. Inc., an importer, filed with the Commission a request for a review of an outstanding dumping order. 1/

On October 11, 1979, the Commission published a notice in the Federal Register 2/ inviting public comment on the question of whether the Commission should conduct the review requested by Melex. 3/ After consideration of the

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1/ Melex is the exclusive importer of electric golf cars from Poland. Those golf cars imported into the United States are subject to an outstanding antidumping order issued by the Secretary of Treasury on November 18, 1975 following the Commission's September 16, 1975 determination of injury. Melex cited as the authority for its request the then applicable section 207.5 (19 CFR 207.5) of the Commission's Rules of Practice and Procedure (Rules). Section 207.5(a) provided: "The purpose of an investigation by the Commission to review a determination that has been made under section 201(a) of the Antidumping Act, 1921, as amended, is to determine whether changed circumstances exist which indicate that, if the finding of dumping issued by the Secretary of the Treasury were modified or revoked, an industry in the United States would likely be injured, or prevented from being established, by reason of the importation into the United States of the relevant merchandise at less than fair value within the meaning of the Antidumping Act, as amended."

2/ 44 F.R. 58817.

3/ Section 207.5(c)-(f) governed the procedure to be followed by the Commission in review proceedings, including the method of institution, public hearing, written statements and notification of the determination.

request and the public comments, the Commission on January 30, 1980, voted pursuant to section 751 and section 207.45 of the Rules to institute an investigation to review its September 16, 1975 determination. 1/

Statutory Framework

Section 751(b)(1) provides in relevant part:

> "Whenever the... Commission receives...a request for the review of an affirmative determination made under section... 735(b), which shows changed circumstances sufficient to warrant a review of such determination, it shall conduct such a review after publishing notice of the review in the Federal Register." 2/

In implementing section 751 with respect to this proceeding, the Commission is required to perform two acts. First, it must decide that the request for review "shows changed circumstances sufficient to warrant a review," and, second, the Commission must "conduct such a review" after publishing notice. It is implicit in the Commission's institution of this review, pursuant to its Notice of Investigation and Hearing of February 13, 1980, that the first statutory criterion has been satisfied. 3/

Section 751, however, provides no specific standard on its face for conducting a review of an affirmative Commission determination in dumping investigations. In reviewing suspensions of investigations under section 704 and 734, we are compelled by section 751(b) to consider "whether, in light of

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1/ Chairman Bedell and Commissioners Moore, Alberger and Stern participated in the vote.

2/ Section 106(a) of the Trade Agreements Act of 1979 repealed the Antidumping Act of 1921 but provides that findings in effect on the effective date of the 1979 Act shall remain in effect "subject to review under section 751 of the Tariff Act of 1930." The Commission may not review a determination under section 735(b) less than 24 months after the date of publication of the notice of the determination, except for good cause shown. (19 U.S.C. 1675 (b)(2)).

3/ The Notice states: "On the basis of the application and the public comments, the Commission, by action of January 30, 1980, voted to institute an investigation pursuant to section 751 of the Tariff Act of 1930 and section 207.45 of the Rules of Practice and Procedure." 45 F.R. 9829.

changed circumstances" certain agreements reached "continue to eliminate completely the injurious effects of imports of merchandise." But with respect to final Commission determinations in antidumping and countervailing duty investigations, the statute contains no standard for review nor any specific reference to factors to be considered upon review, such as those enumerated in section 771(7) of the Tariff Act of 1930. 1/ While there is no cross-reference to section 771(7), that section enumerates certain factors that are relevant to our determination here.

In considering the basis on which to conduct such a review, in the absence of specific statutory guidance, we have looked to the legislative history of section 751 and to the Agreement on Implementation of Article VI of the General Agreements on Tariffs and Trade (Antidumping Agreement), which is implemented by sections of subtitles B and C of Title VII of the Tariff Act of 1930.

The legislative reports provide little guidance. The reports of the Senate Committee on Finance 2/ and the House Committee on Ways and Means 3/ merely paraphrase or repeat language of the statute. The Statements of Administrative Action, as well, only echoes the language of the statute. 4/ Both the House and Senate Reports do refer to past Commission practice, but

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1/ 19 U.S.C. 1677(7). There is even a difference with regard to specificity between section 751(b) and 751(a) (relating to the administering authority's periodic reviews of the amount of net subsidies and antidumping duties).

2/ Trade Agreements Act of 1979: Report of the Committee on Finance..., S. Rept. No. 96-249 (96th Cong., 1st Sess.), 1979, pp. 79-81. (Hereinafter Senate Report).

3/ Trade Agreements Act of 1979: Report of the Committee on Ways and Means..., H. Rept. No. 96-317 (96th Cong., 1st Sess.), 1979, pp. 71-72. (Hereinafter House Report).

4/ Trade Agreements Act of 1979: Statements of Administrative Action, H. Doc. No. 96-153, Part II (96th Cong., 1st Sess.), 1979, p. 429.

they do so only by way of historical comment and without specifically approving it or indicating that the new law would be a codification of that practice. 1/

Although neither Committee in its report specifically addressed the purpose for review by the Commission under section 751(b), considering that Title VII is intended to implement the Antidumping Agreement and the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (Subsidies Agreement), an examination of the relevant parts of these two agreements helps to clarify the Commission's role.

Both the 1967 Antidumping Agreement 2/ and the current Antidumping Agreement contain a provision concerning the permissible duration of antidumping duties. According to Article 9 of the Antidumping Agreement,

> "1. An antidumping duty shall remain in force only so long as and to the extent necessary to counteract dumping which is causing injury.
>
> 2. The investigating authorities shall review the need for the continued imposition of the duty, where warranted, on their own initiative or if any interested party so requests and submits positive information substantiating the need for review."

The Subsidies Agreement contains similar language. 3/

Views concerning the need for such limitations on the duration of antidumping duties were heard by both Committees in their consideration of the Trade Agreements Act of 1979. One view was expressed to the Committee on Ways and Means as follows:

> "Although we are not defending dumping, on the benefit side dumping represents lower prices to consumers, results in more competition and improved industrial performance, and acts as an anti-inflationary mechanism of price control.

1/ Senate Report at p. 79. House Report at p. 71.
2/ At Art. 9. It should be noted, however, that the Congress never implemented the 1967 Antidumping Agreement.
3/ At Art. 4:9.

. . . . .

> The Antidumping Code contains no explicit provision for the termination of findings of dumping and the lifting of dumping duties. Both the IAC (Article 9(a)) and, we understand, the subsidies code contain provisions which would require that antidumping or countervailing duties remain in force only so long as, and to the extent necessary to counteract, the dumping or subsidization which is causing material injury.... Furthermore /we urge/ that conforming changes be made to U.S. antidumping law, and procedures established to provide for a review process initiated by either government investigating authorities or by interested parties. Our submission is based on the premise that because trade policy must reflect the necessary balance between the free movement of goods, with its consequent benefits, and protection of domestic interests, dumping duties should be imposed only when material injury to the domstic industry has been found to exist. Thus, when that material injury no longer exists, dumping duties should no longer be necessary.(Emphasis added) 1/

Even those not wholly supportive of limiting the duration of antidumping or countervailing duties recognized the thrust and clear requirement of the new Agreement:

> "If an injury test is required, it is essential that U.S. petitioners be protected from frequent review of injury determinations. Normally, there should be no such review in less than three years. To obtain a review in a shorter period of time a directly interested party should be required to demonstrate positively that no evidence of injury exists and that there is no likelihood that injury will recur in the foreseeable future." 2/

Thus, in enacting section 751, the Congress considered and fulfilled commitments undertaken by this country in signing the Antidumping and Subsidy Agreements.

Giving due consideration to the language on the face of section 751, the legislative history, and the international agreements on which this section is based, it is not difficult to arrive at a reasonable standard for review under

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1/ Statement of Robert McElwaine for the American Imported Automobile Dealers Association before the Committee on Ways and Means, April 27, 1979, pp. 516 and 517.

2/ Statement of Charles Carlisle for the Ad Hoc Subsidies Coalition et al. before the Committee on Finance, February 22, 1979, p. 83.

section 751. The fundamental objective in review under this provision, then, is to satisfy the policy that where there is no material injury, threat thereof, or material retardation of the establishment of an industry, antidumping duties should not be applied. Consequently, the Commission's task under section 751 is to view the relevant facts and circumstances as they currently exist to determine whether an industry in the United States would suffer material injury, or the threat thereof, or whether the establishment of an industry would be materially retarded if the existing antidumping duty order

were not in effect.

The Domestic Industry

The appropriate domestic industry with respect to which we must apply the standard discussed above is the domestic golf car industry including producers of both gas and electric golf cars. Section 771(4)(A) of the Tariff Act of 1930 1/ defines the term "industry" to mean the domestic producers of a "like product" and section 771(10) 2/ defines "like product" as " a product which is like, or in the absence of like, most similar in characteristics and uses with the articles subject to an investigation."

The physical appearance and the production process of gas and electric golf cars is very similar. The major difference is that final assembly of gas cars requires addition of an engine and gas tank while assembly of electric cars requires addition of an electric motor and batteries. Producers that manufacture gas and electric cars employ the same personnel and share the same facilities for production of both types of cars. Gas and electric golf cars serve the same purpose although both have advantages and disadvantages which

1/ 19 U.S.C. 1677(4)(A).
2/ 19 U.S.C. 1677(10).

purchasers recognize and weigh according to their specific needs. 1/ Therefore, gas golf cars are considered "like" electric golf cars and should be considered part of one industry.

Competitive Condition of the Industry

The U.S. golf car industry is currently able to meet competition from Polish golf cars. Certain developments have contributed to the overall competitive condition in the industry. To begin with, changes in the composition of the industry have resulted in a greater concentration of production among fewer firms. In 1975 2/ there were 13 golf car producers, 6 of which accounted for over 90 percent of production. 3/ By 1979 there were 12 producers but only 3 firms, E-Z-Go, Harley Davidson, and Club Car accounted for over 90 percent of production. 4/ In addition, there was significant readjustment within the industry between 1974 and 1979. During that period, six producers left the market, two domestic firms began production and three producers changed ownership. 5/.

A second development is the evolution of new marketing strategies. Among the most significant is the trend of some U.S. producers toward establishing factory-owned dealerships to sell and service their products rather than relying on independent distributors and dealers. Confidential information received by the Commission indicates that firms using factory-owned dealerships have met with greater financial success than their competitors. 6/

1/ Commission Report, A-2 - A-3.
2/ The use of 1975 data in this opinion is not meant to suggest that section 751 requires that the period of the review begin immediately after the Commission's orginal determination. Each Commissioner, as in every investigation, must choose the period he or she considers to be most appropriate.
3/ Report at A-7.
4/ Ibid.
5/ Report at A-7 and A-9.
6/ Report at A-26.

Because most of the relevant information is confidential, our discussion is necessarily limited. However, one important factor in this trend toward factory-owned dealerships is the elimination of the middleman. Profits of factory-owned dealerships do not have to be as high as those required to keep independent dealers in business, therefore factory outlets are able to offer golf car buyers more competitive prices and are thus able to increase their sales. 1/ Although the majority of domestic golf cars are still sold through independent dealers, the share sold by factory-owned dealerships is increasing rapidly. 2/

During the last two years, total U.S. production and capacity utilization recovered from the low levels of 1975 and 1977. Both followed the same trend, increasing substantially between 1977 and 1978 and then declining slightly from the 1978 level in 1979. Total domestic production was 46,948 units in 1977, 53,845 units in 1978 and 52,889 units in 1979. Capacity utilization increased from 41.8 percent in 1977 to 51.9 percent in 1978 and then declined to 50 percent in 1979. 3/ U.S. producers' domestic sales and leases and apparent U.S. consumption increased each year from 1977 to 1979. 4/ With regard to each of the above factors, the 1978-1979 levels surpassed previous industry performance.

While much of the information regarding employment, wages and man-hours worked is confidential, the data generally supports the conclusion that the condition of the domestic golf car industry is good despite sustained competition with electric golf cars from Poland. Employment has steadily

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1/ Report at A-12.
2/ Ibid.
3/ Report at A-27.
4/ Report at A-41.

increased since 1975. Wages have increased from 1975 to 1979, with the exception of a decline in 1977, and wages paid during 1978 and 1979 are substantially higher than those for 1975-1976. Total man-hours worked also reached a low point in 1977, but rebounded in 1978 and 1979.

Between 1975 and 1979, U.S. golf car producers' net operating profits increased by over 190 percent, while the ratio of net operating profit to net sales increased by over 45 percent. In addition, despite sharply increasing inflation rates over this period, the ratio of the cost of goods sold to net sales declined slightly. The problems experienced by Harley-Davidson during 1975-77 in attempting to introduce a new electric golf car have had a continuing negative impact on the aggregate figures for the golf car industry's profitability. 1/

In addition to continued imports from Poland, imports from Japan entered the U.S. market in 1978, and the decline in Polish imports from 9,810 units in 1978 to 5,220 units in 1979 was offset by the increase in Japanese imports. Thus, the industry performance has been competitive despite a substantial increase in both the quantity of total imports and the ratio of imports to consumption.

With respect to price, information collected by the Commission for 1977-79 indicates that the price paid for Melex cars by their dealers and distributors was consistently lower than the weighted average prices of U.S. produced golf cars to their distributors and dealers. In 1977, the price of the Melex 3-wheel car was 11 percent below the weighted average unit price of domestic 3-wheel electric cars; by 1979, the margin of underselling increased to 13 percent. 2/ In 1977, the price of the Melex 4-wheel car was 7 percent

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1/ Report at A-25
2/ Report at A-29.

below the weighted average unit price of domestic 4-wheel electric cars. By 1979 the margin of underselling had increased to 11 percent. 1/ According to officials of the Department of Commerce, the margins of underselling since September 1978 were not the result of dumping.

An important factor in this determination is that the margins of underselling do not reflect the entire competitive situation. The price data used in these comparisons do not reflect either the differing levels of support services (e.g., marketing services, financial assistance, inventory control plans and training programs) or the differing warranties offered by U.S. producers and Melex, USA, to their dealers and distributors. If these factors were considered, we believe the apparent competitive advantage of the imported car would be reduced.

In this connection, many golf car purchasers do not appear to consider price the primary factor in making their purchasing decisions. Both the Commission Report and the testimony given at the public hearing emphasize that price in many cases is not the most significant consideration given to golf car purchases. 2/ Fleets of golf cars are most often acquired by owners of both public and private golfing establishments as a means to generate additional profits. Golf car rental not only provides a source of revenue in itself, but also speeds up play, thereby allowing golf clubs to facilitate larger memberships and to collect additional greens fees through accommodation of more players. Because of this profit-generating role, quality and serviceability are primary concerns.

1/ Ibid.
2/ Report at A-13, Hearing Transcript at 52-53.

Moreover, it appears that the price of the imported product has had a minimal effect on U.S. producers' prices. During the period 1977-1979, U.S. producers' weighted average prices for golf cars increased at at faster rate than prices for Melex cars. U.S. producers' weighted average prices for 3- and 4-wheel electric cars increased by 12.8 percent and 17.2 percent, respectively, from 1977 to 1979. In contrast, the weighted average prices for Melex 3- and 4-wheel cars increased by only 11.3 percent and 11.2 percent, respectively. 1/

The limited influence of price as a factor in purchasing golf cars is borne out by the lost sales experience of the domestic industry. Only one golf car producer made specific allegations of sales or leases lost to Melex cars because of price or the terms of the lease. However, in 25 of the 42 instances where the staff could confirm a purchase or lease of Melex cars between 1976 and 1979, the firms stated that price was not their primary consideration in selecting Melex cars over the comparable domestic models. Of these firms, 18 indicated that their decisions were based primarily on the quality of the imported car and the service provided by the Melex dealer. 2/

Conclusion

Considering the factors which indicate the strength of the industry, particularly the strong evidence that price is not necessarily the most important consideration in making purchases of golf cars, we conclude that the domestic golf car industry would not suffer material injury nor threat of material injury if the existing antidumping duty order were no longer in effect.

1/ Report at A-29 and 39.
2/ Report at A-41.

VIEWS OF COMMISSIONER PAULA STERN

The condition of the U.S. golf car industry has improved substantially since the Commission's earlier determination of injury by reason of less-than-fair-value (LTFV) imports of electric golf cars from Poland, and this improvement occurred despite sustained competition with the lower-priced Melex cars. 1/ The improvement in the industry's profits appears to have been restrained by a single producer's poor performance which was unrelated to the Polish imports. In fact, imports from Poland declined from 1978 to 1979. Apparently, the subject imports have not been the source of any problem for the domestic industry during a period when materially injurious LTFV sales were not possible due to statutory relief. Pezetel has not exhibited any tendency to sell Melex cars at LTFV margins since September 1978 and has no incentive to begin doing so should the statutory relief be removed. Therefore, I have concluded that an industry in the United States would not be threatened with material injury if the finding of dumping concerning electric golf cars from Poland were revoked.

The review investigation

On February 5, 1980, as a result of a petition by Melex USA, Inc., the U.S. International Trade Commission instituted the present investigation to determine whether changed circumstances indicate that an industry in the United States would not be threatened with material injury if the

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1/ Melex USA, Inc. is a wholly-owned subsidiary of Pezetel, the Polish state-trading organization for the subject golf cars.

antidumping finding (and duties) on electric golf cars from Poland were revoked.

This matter has a long and complicated history. On June 11, 1975, the Department of the Treasury determined that electric golf cars from Poland were being sold at less than fair value. In its investigation, Treasury examined 100 percent of the golf car entries from Poland during a ten-month period from December 1, 1973, to September 30, 1974. Weighted average dumping margins of 20.9 percent and 21.0 percent were found for three- and four-wheel cars, respectively. On September 16, 1975, the Commission determined, under the provisions of the Antidumping Act of 1921, that an industry in the United States was being injured by these LTFV sales of electric golf cars from Poland. 2/ Since this finding, U.S. Customs officials liquidated golf car entries from Poland for the period March 1975-July 1976. During this period, the average dumping margin for three- and four-wheel cars was only 3.5 percent. Due to difficulties in assessing the foreign market value of Polish golf cars, there have been no duties assessed on Melex cars since 1976. 3/ The U.S. Department of Commerce, the administering authority in antidumping proceedings since January 1, 1980, estimates that there have been no LTFV sales since September 1978. 4/

2/ Chairman Leonard, Vice Chairman Minchew, Commissioners Bedell, Parker, and Ablondi voted in the affirmative. Commissioner Moore voted in the negative. See Electric Golf Cars from Poland, Inv. No. AA-1921-147, USITC Pub. 740 (1975).

3/ No entries have been liquidated since 1976.

4/ See May 9, 1980 letter from John D. Greenwald, Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce, addressed to Hon. Catherine Bedell, Chairman, USITC. The text is reproduced at Appendix C of the accompanying staff report (Report).

Standards for review

This review has been conducted under the provisions of Section 751(b) of the Tariff Act of 1930. 5/ The statute is written in general terms. The relevant portion is:

> (b) REVIEWS UPON INFORMATION OR REQUEST.--
> (1) IN GENERAL.--Whenever the administering authority or the Commission receives information concerning, or a request for the review of, an agreement accepted under section 704 or 734 or an affirmative determination made under section 704(h)(2), 705(a), 705(b), 734(h)(2), 735(a), or 735(b), which shows changed circumstances sufficient to warrant a review of such determination, it shall conduct such a review after publishing notice of the review in the Federal Register. 6/

The statute is not informative as to the precise determination that is to be made, the criteria to be analyzed in conducting such a review, the deadline within which the Commission must act, or even whether "material" injury is the standard for reviewing determinations made under the

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5/ See 19 U.S.C.A. 1675 (1980). Sec. 751 was added to the Tariff Act by the Trade Agreements Act of 1979, 93 Stat. 175. Section 106(a) of the latter Act makes Sec. 751 applicable to affirmative injury determinations made under the Antidumping Act, 1921.

6/ Because more than four years have elapsed since the original Commission determination, the limitation on the period for review found in Section 751(b)(2) is not a constraint. In passing, I note that the limitation provision -- establishing a presumably more stringent standard to obtain a review if less than two years have lapsed since an affirmative determination -- applies only to the question of instituting a review. Sec. 751(b)(2) states:

> LIMITATION ON PERIOD FOR REVIEW.--In the absence of good cause shown--. . . the Commission may not review a determination under section 705(b) or 735(b) . . . less than 24 months after the date of publication of notice of the determination or suspension.

Antidumping Act of 1921. The legislative history offers no additional guidance on these subjects 7/ and I have not found any useful precedents. This is the first review conducted under Section 751 of the Tariff Act of 1930 and Section 207.45 of the Commission rules. Implementation of any statute involving an investigation requires explicit standards and detailed procedures. By framing Section 751 in such a general fashion, the Congress left to the Commission the task of formulating such standards and procedures. The present standards for initial antidumping investigations are enumerated in Section 771 of the Tariff Act, and I find these criteria in the absence of any statutory guidance to the contrary equally appropriate for review investigations.

The Commission is directed by Section 771 of the Tariff Act to consider, among other factors, the volume of imports of the merchandise subject to the investigation, the price effects of such imports, and the impact of such imports on the affected U.S. industry. In assessing impact, the Commission is instructed to examine all relevant economic factors including, but not limited to, actual and potential decline in output, sales, market share, profits, productivity, return on investments, utilization of capacity, factors affecting domestic prices, and actual and negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment.

7/ See Committee on Ways and Means, Trade Agreements Act of 1979, H.Rept. No. 96-317, 96th Cong., 1st Sess. (1979) at 71-72, and Committee on Finance, Trade Agreements Act of 1979, S.Rept. No. 96-249, 96th Cong. 1st Sess. (1979) at 79-82. In discussing Section 751, both reports merely paraphrase or repeat the statute.

In making my determination in this review case, I have considered all information on the record related to these factors. I have focused my attention on the five-year period, 1975-1979 (which includes the entire period since the Commission's previous determination) 8a/ and have carefully considered how circumstances have changed. 8b/ In this regard, developments in the structure and marketing techniques of the industry, as well as changes in the conditions of competition, have led me to conclude that imports of electric golf cars from Poland are not a problem and do not threaten to become a problem for the domestic industry. It follows that the industry would not be materially injured if the finding of dumping were to be revoked.

The standard chosen for a determination in a review investigation reflects the fact that an antidumping finding is in force. That finding subjects any sales at less-than-fair-value to special duties. In such circumstances, material injury to a domestic industry cannot be "by reason of" less-than-fair-value sales because the statutory remedy is already in place. Accordingly, a prospective test has been chosen for the

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8a/ I believe the appropriate period of analysis in reviews should be the same length as that examined in normal final investigations -- five years -- unless a shorter period has passed since the original determination.

8b/ See page 6.

Commission's rule -- specifically, the threat of material injury test found in Section 735(b) of the Tariff Act, also referred to in Section 207.26(d) of the Commission's rules. The threat of material injury standard focuses on what could happen to the domestic industry in the event that the antidumping finding were revoked and there was no mechanism for subjecting any less-than-fair-value sales to special duties.

5b/ Section 751 makes clear that the intent of Congress is that a Commission review should not constitute a reconsideration of the correctness of the original determination, a function reserved for judicial review by the U.S. Customs Court. The present Commission rules are not incompatible with this intent. A review must concentrate on information not considered by the Commission in its initial determination.

Section 751 requires both a finding of changed circumstances and a review of the impact of the subject imports. In formulating standards for conducting such review investigations, the Commission promulgated Rule 207.45 (19 C.F.R. 207.45, effective Jan. 1, 1980), which requires that a finding of changed circumstances be based upon the Commission's investigation. Section 751, if read literally, requires the Commission to base its institution of a review investigation upon a finding of changed circumstances. The regulation, however, insures that a finding of changed circumstances as well as the determination in the review will be based upon the Commission's administrative record.

The present case has raised a question concerning whether a finding of changed circumstances should only be made prior to the institution of a review investigation. Because the present rules are not incompatible with Congressional intent, I am following the principle that the Commission, as a matter of orderly agency process, should, where reasonable, make its determination conform to its rules and the manner in which the investigation was instituted. It is my understanding that the Commission will consider the desirability of amending its rules based on the experience gained in the present investigation.

The imported products and the domestic industry

I have concluded that the appropriate industry against which to measure the impact of imports in this investigation of electric golf cars from Poland consists of all U.S. facilities devoted to the production of golf cars. There are presently twelve known producers of golf cars in the United States and four types of cars, three- and four-wheel models powered by gasoline or electricity. 9/

Each type of car has inherent advantages and disadvantages which must be weighed by the purchaser. In choosing the model type, the purchaser weighs the greater maneuverability, as well as the lower cost and maintenance of the three-wheel car against the greater stability and riding comfort of the four-wheel car. In deciding on the best method of propulsion, the purchaser balances the greater power, noise and exhaust fumes of a gas engine against the upkeep associated with a battery-powered electric car (the batteries must be recharged nightly and replaced every

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9/ My finding on the appropriate domestic industry is based on Section 771(4) of the Tariff Act of 1930, to be codified at 19 U.S.C. 1677(4). Section 771(4)(A) defines the term "industry" to mean the domestic producers of a "like product," which is in turn defined in Section 771(10) as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title."

one to two years.) The physical appearance and production processes of gas and electric cars are quite similar. In fact, the three U.S. producers which manufacture gas cars, also manufacture electric cars; the same personnel and facilities are employed. Additionally, although some consumers may have a strong preference for a particular type of golf car, all car types serve the same purpose and are potential substitutes. Therefore, I find that all golf cars are like products to the subject imports.

Conditions in the industry since 1975

All economic factors on which the Commission obtained information point to improved industry performance from 1975 through 1979. The record includes data on these indicators gathered by Commission questionnaires from firms believed to account for 95 percent of domestic production.

Domestic production of golf cars increased by 18 percent from 45,000 units in 1975 to 53,000 units in 1979. 10/ Similarly, U.S. producers' domestic sales and leases of golf cars grew from 44,000 units in 1975 to 51,000 units in 1979, or by 16 percent. 11/ U.S. exports of golf cars more than doubled in the period, though they have been at relatively low levels. The absolute quantity of inventories of golf cars increased over the period, however inventory levels have been very low. The ratio of inventories to sales increased slightly, from 2.5 percent in 1975 to 3.5 percent in 1979. 12/

10/ Report at A- 8 .

11/ Report at A-17.

12/ Report at A-22.

Capacity utilization for the golf car industry increased substantially, rising by 37 percent from 1975 to 1979. 13/ Moreover, during the same period, a leading U.S. producer of electric cars increased its capacity by 50 percent and three new electric golf car producers (two of them domestic) entered the market, facts which indicate a continued ability to attract new capital to the industry.

Available data indicate that all factors relating to employment in the golf car industry improved over the period under consideration. During 1975-1979, the average number of all employees in U.S. establishments producing golf cars increased by over 80 percent, while the average number of all production and related workers producing golf cars increased by over 150 percent. In addition, aggregate wages paid to and manhours worked by all production and related workers producing golf cars increased by over 30 percent. 14/ Even though these figures may be somewhat overstated due to incomplete data for the earlier years of the period, the trends are nonetheless clearly positive and indicative of a growing industry.

The financial performance of U.S. producers is not easily evaluated. From 1975 to 1978, net operating profits grew steadily to $5.8 million before declining to $3.5 million in 1979. 15/ As a ratio of net sales,

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13/ Report at A-19.

14/ Report at A-20.

15/ Net operating profits for 1975 are confidential.

net profits started the period at below 3 percent, peaked at 7.6 percent in 1977, and then fell to 3.5 percent in 1979. The industry's financial performance has improved since 1975. While the level of profits does not indicate a healthy industry, I will discuss below how the aggregate figures are seriously skewed downward by the unusual problems of one firm.

During the period, U.S. imports of golf cars from Poland declined from 9,982 units in 1975 to 5,220 units in 1979, or by 48 percent. 16/ The ratio of imports from Poland to apparent U.S. consumption of golf cars declined by an even greater percentage over the same period. In 1975, import penetration of the subject cars stood at its peak level since Melex began sales in 1971. The penetration declined irregularly through 1979. 17/

The price information collected by the Commission for the period 1977-1979 indicates that the prices paid for Melex cars by their dealers and distributors were consistently lower than the weighted average prices of U.S. producers' golf cars to their distributors and dealers. 18/ In 1977, the price of the Melex three-wheel car was 11 percent below the weighted average unit price of domestic three-wheel electric cars; by 1979, the margin of underselling increased to 13 percent. 19/ In 1977,

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16/ Report at A-27.

17/ Import penetration figures are confidential for 1978 and 1979.

18/ The fact that the dealer price of Melex cars was lower does not necessarily indicate that the price to consumers was also lower. See below.

19/ Report at A-29.

the price of the Melex four-wheel car was seven percent below the weighted average unit price of domestic four-wheel electric cars; by 1979, the margin of underselling had increased to 11 percent. 20/

The price data used in these comparisons reflect neither the different levels of support services (e.g., marketing services, financial assistance, inventory control plans, and training programs) nor the dif-different warranties offered by U.S. producers and Melex, the exclusive importer of Polish golf cars to their dealers and distributors. 21/ If such factors could be reflected in the price comparisons, the margins of underselling would be substantially reduced. Moreover, it appears that the price of the imported product has had a minimal effect on U.S. producers' prices. During the period 1977-1979, U.S. producers' weighted average prices for golf cars increased at a faster rate than prices for Melex cars. U.S. producers' weighted average prices for three- and four-wheel electric cars increased by 12.8 percent and 17.2 percent, respectively, from 1977 to 1979; whereas the weighted average prices for Melex three- and four-wheel cars increased by only 11.3 and 11.2 percent respectively. 22/ Thus, there are no indications of price suppression or depression due to the presence in the market of imports from Poland.

20/ Report at A-29.

21/ In an attempt to obtain comparable data, Melex prices, which cover unassembled vehicles, were adjusted for costs of assembly, batteries, and chargers. (See Report at A-29. Also, Post-hearing Brief of Melex at 8.) A numerical adjustment for the qualitative factors mentioned above was not possible.

22/ Report at A-29.

Only one U.S. golf car producer has made specific allegations of sales or leases lost to Melex cars due to price or the terms of the lease. However, in 25 of the 42 instances where the staff could confirm that a firm did in fact purchase or lease Melex cars during the period 1976-1979, the firms stated that price was not their primary consideration in selecting Melex cars over the comparable domestic models. Of these firms, 18 indicated that their decisions were based primarily on the quality of the imported car and/or the service provided by the Melex dealer. Price was not mentioned as a factor. The remaining seven firms indicated that while the price of the Melex car was a factor affecting their decisions, the quality of the car and the service provided were at least as important a consideration as price, if not more so. 23/

Special considerations

A better understanding of the role of Polish golf cars is facilitated by an appreciation of the mature yet dynamic character of the industry. Full cognizance must also be taken of the manner in which one significant producer has skewed the aggregate statistics for the domestic industry.

Since 1954, when the first golf car was built, the industry has passed through three distinct phases. The small, specialized market of the 1950s underwent rapid expansion in the 1960s as golf became a big business in the United States. By the 1970s, however, the market neared the point of saturation. As the market's limits were approached, growth slowed, and the industry

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23/ Report at A-41.

reached maturity. 24/ The most recent decade has seen significant changes in the identity and performance of the individual firms. Between 1974 and 1978 six firms, two of them recent entries, exited the market. However, between 1977 and 1979, three new producers entered the market, two of them domestic firms. Three firms have changed ownership. These entries into a mature industry are direct evidence that some firms, at the very least, believe that production of golf cars is not only viable, but within the reasonable future, can be made profitable.

The continued optimism of many firms in the industry -- in face of the meager, if improving, aggregate profits already noted -- is explained by the widely differing experiences of the individual producers in this market. One early entrant to the market has consistently made a strong showing, while the performance of the Harley-Davidson Motor Corp. in golf cars has deteriorated in the last five years, thus negatively affecting the overall industry data on profitability for the period. Harley's problems stem from an ill-fated attempt to introduce a new electric golf car in 1975-1977; its continuing problems in the last two years seem attributable to successful competition from other domestic producers as well as the entry of Japanese exports of gas and electric cars since 1977.

24/ This industry's life cycle is explained in the Report at A-5 and 6 . An apparent factor in slowing the growth of the industry has been the rebuilding of used golf cars, now that large fleets are in place. Refurbished cars function as efficiently as new ones and cost 15 to 25 percent less. The rebuilding trade was not examined in sufficient detail in the present investigation to determine its significance. Because refurbishing is an outgrowth of business at the dealer level, it may help explain the relative success of manufacturers with factory-owned outlets. The most significant benefit of such outlets is probably the savings from the elimination of middlemen in the distribution network.

Indeed, the owner of Harley, AMF Incorporated, stated in its 1979 Form 10-K filed with the SEC: "Golf car revenues showed moderate declines reflecting strong domestic competition and a new entry from Japan." 25/ No mention was made in the SEC filing of imports from Poland as a factor in Harley's situation. Recent entrants are still in the process of establishing their market presences. The success stories seem to be distinguished by dynamic marketing strategies including aggressive pricing and increasing reliance on factory-owned dealerships. Other domestic producers, excluding the most recent entrants which seem to be making satisfactory progress toward profitability, appear to be healthy. For example, the sales and income of Textron, Inc. are at record levels, and Textron is expanding its product line. 26/

A recent, yet significant, factor in the golf car market is the entry of a new gas car from Japan, considered by many in the industry to be a superior product. It made such a strong showing in 1978 and 1979 that U.S. consumption of golf cars was able to rise at a time when domestic production fell. One U.S. producer was able to expand its sales of gas cars in spite of the increased penetration of Japanese imports. Harley was not.

25/ Form 10-K, filed by AMF Incorporated with the SEC for the fiscal year ended Dec. 31, 1979, at page 7 of "1979 AMF Annual Report."

26/ Form 10-K, filed by Textron, Inc. with the SEC for the fiscal year ended Dec. 29, 1979, "1979 Textron Annual Report."

No threat of material injury by reason of LTFV imports from Poland

There are a number of considerations which strongly argue against the threat of material injury by reason of LTFV imports from Poland. Pezetel, the Polish state-trading organization for golf cars, has demonstrated that it is able to undersell domestic producers without resorting to dumping. At the same time the price paid for Melex cars has been consistently lower than price paid for comparable domestic cars, there have apparently been no dumping margins on the imported product since September 1978. Without the benefit of LTFV margins, the Melex price advantage has grown. In any event, a significant segment of the golf car market does not appear to be price sensitive. Additionally, the price paid for Melex cars f.o.b. Poland typically represents less than 50 percent of the final price of the golf car to the end user. 27/ It is clear that Pezetel has little incentive to resume selling Melex cars at less than fair value. Despite a Polish production capacity of 10,000 units per year, 28/ Melex has given the Commission assurances that its annual imports of golf cars from Poland will not exceed an average of 8,000 cars through 1985, and that Melex will not knowingly

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27/ See Hearing Transcript, April 16, 1980, at 58.

28/ The capacity of 10,000 units has bee verified by the U.S. Customs Service..

sell its product for less than "foreign market value" under the regulation for determining foreign market value. 29/ Assuming that apparent U.S. golf car consumption during this period remains relatively unchanged from the 1979 level, the assurance on the volume of imports indicates that the subject imports' share of the U.S. market will remain at a level lower than the average market share held by Melex cars during 1975-1979. 30/ Poland's economy is organized in terms of five-year plans, the most recent plan having begun January 1, 1980. There are apparently no plans to expand sales in the United States beyond the 8,000 unit level. 31/ The number of Melex cars already contracted for delivery in 1980 and 1981 is well below that level. 32/ In order to make additional sales, Melex must face the same stiff competition from other U.S. producers and importers that the petitioner has encountered. Simply put, there is no real and imminent threat of LTFV sales. Nor is there any threat of material injury to the domestic industry by reason of such sales, were they to occur.

29/ See Hearing Transcript, April 16, 1980, at 33.

30/ In fact, this calculation is conservative. Demand in the United States may grow at three percent annually in the next several years. (See Report at A-6 .)

31/ Statement of Sygmunt Stepien, President of Melex, USA, Hearing Transcript, April 16, 1980, at 33.

32/ Confidential version of "Addendum to Appendix of Exhibits to Prehearing Statement of Melex USA, Inc. (April 11, 1980) at Tab B.

Introduction

On February 5, 1980, the U.S. International Trade Commission instituted review investigation No. AA1921-147A under section 751 of the Tariff Act of 1930, by publishing notice in the Federal Register (45 F.R. 9829). 1/ The purpose of the investigation is to determine whether changed circumstances exist which indicate that an industry in the United States would not be threatened with material injury if the antidumping finding concerning electric golf cars from Poland were revoked.

On September 16, 1975, the Commission determined by a majority vote that an industry in the United States was being injured by reason of the importation of electric golf cars from Poland that were being, or were likely to be, sold at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921. The Department of the Treasury published a finding of dumping in the Federal Register on November 18, 1975 (40 F.R. 53383). On August 6, 1979, an application for review of the Commission's prior determination was filed with the Commission by Melex, USA, in accordance with the then extant Rules. Melex, USA, is a wholly owned subsidiary of Pezetel, the Polish state-trading organization for the subject golf cars, and has been the exclusive U.S. importer of the product since 1975.

On October 2, 1979, the Commission published a notice in the Federal Register inviting public comment on the question of whether the Commission should conduct a review of the determination. 2/ Comments were received from five interested parties. After considering the application and comments, the Commission voted on January 30, 1980, to institute an investigation pursuant to section 751 of the Tariff Act of 1930 and section 207.45 of the Rules. In connection with the investigation, a public hearing was held on April 16, 1980. According to the Rules of Practice and Procedure, the Commission must render its decision within 120 days after institution, or in this case, by June 3, 1980.

The Product

Description and uses

Golf cars are small, self-propelled vehicles designed to convey two golfers and their clubs around a golf course. They are equipped with racks for carrying golf bags and wide-tread "turf" tires which minimize damage to the fairways. All golf cars serve the same purpose; however, they vary according to their equipment, design, method of propulsion, and construction.

Golf cars are offered with standard equipment and optional accessories. The standard equipment generally includes everything required to make the car operational, e.g., a steering mechanism, seats, brakes, and tires. The optional accessories consist of "extras" which improve the appearance of the

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1/ A copy of the Commission's notice of investigation and hearing is presented in app. A.

2/ A copy of the Commission's notice of receipt of application for review of determination of injury and request for public comments is presented in app. B.

car, make it more comfortable, and/or more versatile. These accessories can include anything from cigarette lighters to televisions, but some of the standard accessories are canopies, windshields, sweater baskets, hubcaps, headlights, sand trap rakes, and tow bars. Most manufacturers also offer conversion kits for transforming a golf car into a light-weight commercial-industrial vehicle, such as a personnel carrier or small burden carrier.

There are four general types of golf cars produced--3- and 4-wheel models, powered either by gasoline (gas cars) or electricity (electric cars). Each type has inherent advantages and disadvantages which must be weighed by the purchaser to determine which type is most suited to his needs. The 3-wheel cars tend to be more maneuverable, require less maintenance, and cost less. Some people feel that a 3-wheel car also does less damage to the fairways. On the other hand, the 3-wheel design is not as stable as the 4-wheel design, which gives a smoother ride and is safer on irregular terrain.

Gas and electric cars are very similar except, of course, for the method of propulsion. Gas cars are propelled by a gasoline-fueled, 250 cubic centimeter internal combustion engine that delivers between 10 and 15 horsepower. Electric cars are propelled by a 2 horsepower motor driven by six 6-volt batteries. The governed speed of both cars is 10 to 12 m.p.h.; however, the extra power of the gasoline engine makes the gas car better suited for hilly courses. Still, the engine is noisy in comparison with the motor of the electric car which is virtually noiseless. The gas engine also emits exhaust fumes. The primary disadvantage of an electric car is that the batteries must be recharged regularly, usually for 12 hours after two rounds of play. The batteries also have a limited life and depending on the use, must be replaced every 1 or 2 years. Replacement cost for the six batteries depends on the current lead market, but generally runs from $240 to $300.

The production process for both gas and electric cars basically consists of two steps. In the first step, the component parts are prepared (e.g., steel sheet, tubes, and bars are shaped, pressed, and machined). In the second step, the prepared components are assembled. Generally, the cars' body and frame are manufactured by the producing company, while most of the other key components--the engine, motor, differential, steering column, switches, axles, wheels, and so forth--are purchased outside the company. The components are first prepared and then combined into subassemblies, which are then put together on an assembly line to produce the golf car. Because gas and electric cars are very similar outside of the fact that one has an engine and gas tank while the other has an electric motor and batteries, the production facilities and personnel of those producers which manufacture both types of cars are essentially shared. The only clear distinction between the two products in the manufacturing process arises on the final assembly line.

The capital investment required to manufacture golf cars depends on the volume of production and the degree of vertical integration in the plant. Clearly, a small producer that purchases nearly all the golf car's components from outside sources needs less equipment to handle its production than a producer that manufactures many of its own components and turns out large numbers of cars in a relatively short period of time.

The golf cars produced today are not substantially different than those produced 5 years ago, although they tend to be lighter and more efficient. There is a shift toward using fiberglass or injection-molded urethane rather than the traditional steel for the car's body. Fiberglass and urethane are not only substantially lighter in weight than steel, but also rust proof. The improvements in operating efficiency are not major breakthroughs; they represent continuing product upgrading and improvement. This is necessary if a producer is to remain competitive in a relatively dynamic industry.

Although the quality of golf cars produced varies from purely utilitarian to very luxurious, the vast majority are simply good quality cars. Very few golf cars are sold to individuals. A few more (less than 5 percent) are sold to airports, factories, or motels and converted to commercial-industrial vehicles. However, the primary market for golf cars consists of public golf courses and private country clubs. These establishments purchase or lease "fleets" of cars which are rented to their patrons. These fleets represent a significant source of revenue for the courses. The rates charged may vary from $8 to $20 per 18-hole round, but usually fall in the $9 to $12 range. The cars are normally used for two complete rounds per day (during the season) and are kept for 4 to 5 years before being replaced.

After this first stint, many golf cars are returned to the dealers or factory outlets where they are often rebuilt. These rebuilt cars generally cost 15 to 25 percent less than a new car, but function just as efficiently. A significant portion of the rebuilt cars are converted to commercial-industrial vehicles, but most compete with new golf cars for sales, much as used automobiles compete with new automobiles. Rebuilding golf cars is a normal outgrowth of business at the dealer level and an industry wide practice.

U.S. tariff treatment

Golf cars are dutiable under the provisions of item 692.10 of the Tariff Schedules of the United States. This category includes all motor vehicles (except motorcycles) for the transport of persons or articles, other than automobile trucks valued at $1,000 or more and motor buses.

Poland was granted most-favored-nation (MFN) status in 1960 and began exporting golf cars to the United States in 1971. The column 1 (MFN) rate of duty applicable to golf cars has been 3.0 percent ad valorem since January 1, 1972, when the final stage of the reductions granted in the Kennedy round of the Multilateral Trade Negotiations became effective.

This rate remained in effect until January 1, 1980, when the first stage of concessions granted by the United States in the Tokyo round of the Multilateral Trade Negotiations reduced the rate of duty to 2.9 percent ad valorem. The final MFN concession is 2.5 percent ad valorem, and is the rate of duty currently applied to imports from least developed developing countries (LDDC's). The column 2 (statutory) rate is 10 percent ad valorem. This item is not designated as an eligible article for purposes of the Generalized System of Preferences.

Nature and Extent of Sales at LTFV

On June 16, 1975, the Department of the Treasury determined that electric golf cars from Poland were being sold at less than fair value within the meaning of the Antidumping Act of 1921. The determination was based on comparisons of Pezetel's export prices to a constructed value based on the price of the Canadian-produced Marathon golf car (Marathon value). To date, dumping duties have been assessed only on entries from 1975 and 1976. These liquidations were based on the Marathon value. Since 1976, Treasury has had considerable difficulty in determining the foreign market value (FMV) of Polish golf cars. Therefore, entries from July 1976 to the present have yet to be liquidated.

Treasury instituted antidumping proceedings on June 14, 1974, in response to a petition filed on behalf of the Outboard Marine Corp. (OMC). The notice of withholding of appraisement was published in the Federal Register on March 14, 1975. In its investigation, Treasury examined 100 percent of the golf car entries from Poland during a 10-month period from December 1, 1973, to September 30, 1974. Because Poland has a state-controlled economy, FMV was required to be a constructed value based on the home-market price in a free-economy country. Canada was chosen as the appropriate country and the constructed value was based on Canadian prices for Marathon golf cars. Marathon's prices were adjusted to reflect economies of scale, because the Marathon Golf Car Co.'s annual production totaled only 250 cars, whereas, Pezetel has an annual production capacity of 10,000 cars. The f.o.b. price of U.S. imports from Poland was used as the purchase price. Treasury compared the Polish purchase price with the Marathon value, and determined on June 11, 1975, that the Polish golf cars were being sold at less than fair value. The weighted average dumping margins were found to be 20.9 percent for 3-wheel cars and 21.0 percent for 4-wheel cars.

After the Commission determined that these LTFV imports were causing injury to a domestic industry, it was required that dumping duties be assessed on the Melex golf cars. However, that process was complicated by two circumstances--the Marathon Golf Car Co. stopped producing golf cars in 1975 and new Customs Regulations went into effect in July 1976. As a result, Customs decided to use the Marathon value, adjusted for inflation, as the FMV in liquidating entries from March 1975 through 1976. During this period, the average dumping margin for 3- and 4-wheel cars was about 3.5 percent, and more than * * * in dumping duties were collected.

The new Customs Regulations required that, in the absence of similar merchandise manufactured in a free-market country, prices or costs of U.S.-manufactured merchandise could be used to determine FMV. It was decided that the Marathon value was too remote to be used as the FMV after 1976, since there had been no sales of Marathon golf cars since 1975. Thus, in liquidating entries from 1977 to September 1978, FMV will be based on the prices of * * *. As a result, dumping margins in this period are expected to increase substantially.

Pezetel officials are concerned about this decision. With the additional cost of shipment, basing FMV on U.S. prices effectively excludes the foreign competitor from the U.S. market. In fact, new regulations were promulgated

effective September 9, 1978. These are the current regulations, and they direct that the constructed value shall be computed using actual cost inputs which have been valued in a market economy at a stage of development comparable to the exporting state-controlled economy country. 1/

According to information received from the Department of Commerce, an independent consulting firm developed cost information using Spain as the country with a free-market economy at a comparable level of development. This cost information was based on December 1977 prices which have been inflated by Spanish price indices available through September 1979. Comparisons of purchase prices of Melex cars with these constructed values have resulted in no sales below fair value. Price indices are not available for September 1979 through May 1980, however, a prudent estimate of an 8-percent inflation rate for that period would result in estimated foreign market values of * * * and * * * for the 3- and 4-wheel golf cars. A comparison with purchase prices of * * * and * * * results in no sales below fair value. 2/

U.S. Market and Apparent Consumption

The first golf car was built in 1954, thus creating a market which has developed through three distinct stages. In the 1950's, the market for golf cars was small and specialized. In the 1960's the market experienced rapid growth. In the 1970's, however, the growth rate was steadily declining as the market reached the point of saturation.

In the market's infancy, golf cars were luxury items purchased by individuals who could afford their own mechanical caddies. The market was small and specialized, as were the producers. Most golf cars were produced by Cushman, a subsidiary of OMC, and E-Z-Go Car Co. However, the situation changed dramatically in the 1960's. Golf became big business as a golfing boom swept the country. Golfing establishments soon realized that there was a profit to be made in catering to their patrons' taste for luxury. Public courses and private clubs began to acquire fleets of golf cars which, for a fee, were placed at the customer's disposal. These rentals became a significant source of revenue for the establishments. The courses and clubs, in turn, became the major purchasers of golf cars. This shift from individual sales to fleet sales expanded the market tremendously.

1/ Harley-Davidson has objected and continues to object to this methodology of determining fair market value. The Commerce Department also has this regulation under review, and the House Ways and Means Committee is scheduled to hold hearings on the regulation this year.

2/ See letter of May 9, 1980, addressed to Honorable Catherine Bedell, Chairman International Trade Commission signed by John D. Greenwald, Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce. A copy is presented in app. C.

Because of the rapidly expanding market, and the ease with which a firm could enter the industry, the production of golf cars became an attractive business. While the existing producers were expanding their operations, at least a dozen producers appeared on the scene. E-Z-Go was acquired by Textron, Inc., in 1960. Harley-Davidson Motor Corp. began producing golf cars in 1962 and was acquired by AMF Corp. in 1969. In 1971, with the prompting of a U.S. distributor, Poland began exporting golf cars to the United States.

In the 1970's, however, demand for golf cars began to ebb as the market approached the saturation point. The existing golf courses were gradually acquiring the optimum number of golf cars and the rate of course openings was declining. The limits of the market were becoming evident and it became apparent that the market was over-populated with golf car producers. In 1971, golf cars from Poland appeared on the market, increasing the market's excess supply and rendering the golf car market increasingly competitive. During 1974-78, six golf car producers left the market. However, in 1977, Davis 500, Inc., began producing a 4-wheel electric car. In 1978, Yamaha Motor Co., Ltd., began to import golf cars from Japan. Another new producer, Eagle Vehicles, Inc., began production in 1979. Industry sources predict that the golf car market will be stable or experience slow growth (approximately 3 percent annually) in the next several years. Thus, the golf car industry is now confronted with a mature market, excess capacity, and increasing imports.

As shown in the following table, apparent U.S. consumption of both gas and electric golf cars has gone through three apparent stages since 1971. From 1971 to 1974, total U.S. consumption of golf cars increased by 35 percent, but then declined by 11 percent from 1974 to 1977. In 1978, U.S. consumption surged, increasing by * * * percent from 1977. In 1979, consumption increased again, but by only 2 percent.

Table 1.--Golf cars: Apparent U.S. consumption, by types of cars, 1971-79

Year	Electric cars	Gas cars	Total
	Units		
1971	29,608	12,836	42,444
1972	34,361	16,041	50,402
1973	38,465	17,595	56,060
1974	44,914	12,389	57,303
1975	***	***	54,261
1976	***	***	54,030
1977	***	***	51,180
1978	***	***	***
1979	***	***	***

Apparent U.S. consumption of gas and electric cars has differed. U.S. consumption of electric cars increased rapidly from 1971 to 1974, by 52 percent, but dropped off sharply in 1975 and continued to decline until 1977, falling by * * * percent from the 1974 level of consumption. In 1978, U.S. consumption of electric cars increased by 30 percent from the previous year, but remained only * * * percent above the 1974 level. In 1979, U.S. consumption of electric cars declined slightly, falling below U.S. consumption in 1974. In contrast, from 1971 to 1979, U.S. consumption of gas cars increased irregularly by * * * percent. U.S. consumption of gas cars increased rapidly from 1977 to 1979, by * * * percent. U.S. imports from Japan of a new gas golf car, considered by many industry officials to be superior to the domestic product, contributed significantly to the increased levels of apparent U.S. consumption in 1978 and 1979.

The Domestic Industry

U.S. producers

Since 1971, the U.S. golf car industry has been in a state of flux. Although the total number of U.S. producers has not changed significantly, the composition of the industry has. In 1971, there were at least 14 U.S. producers of golf cars, 6 of which accounted for over 90 percent of U.S. golf car production. In 1975, the number of producers declined to 13, but the 6 largest firms still accounted for more than 90 percent of U.S. production. By 1979, there were 12 producers. However, during 1971-79, four producers stopped making golf cars, three companies entered the industry, two firms entered and exited, and three companies changed ownership. The net result of these changes has been a growing concentration of production in a smaller number of firms. By 1979, three firms--E-Z-Go, Harley-Davidson, and Club Car, Inc.--accounted for over 90 percent of U.S. golf car production (table 2).

Golf car producers began to exit from the industry in 1974. In that year Otis Elevator Corp., a small producer, terminated its golf car operations. Otis was followed by two more producers in 1975, Midwest Manufacturing Co. and one of the early leaders in the golf car business, OMC (Cushman). 1/ Another of the larger U.S. producers, Pargo, Inc., went bankrupt in 1978. That same year, two smaller producers--Southern Golf Equipment, Inc., and Huber, Inc.--both of which began producing golf cars in the early 1970's, also left the golf car business. All of these producers, except OMC, produced electric golf cars exclusively. OMC produced both electric and gas cars.

1/ OMC was the company responsible for the original dumping allegation against Pezetel. Moreover, OMC claimed at the time that competition from the LTFV sales of imports from Poland was responsible for its decision to discontinue the Cushman golf car. In a written submission to the Commission dated Mar. 20, 1980, however, counsel for Melex, USA, provided information which challenges OMC's claim that LTFV imports were responsible for that decision.

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Table 2.--Golf cars, electric and gas: U.S. production, by firms, 1971-79

Firm	1971	1972	1973	1974	1975	1976	1977	1978	1979
	Quantity (units)								
E-Z-Go	***	***	***	***	***	***	***	***	***
Harley-Davidson	***	***	***	***	***	***	***	***	***
Club Car	***	***	***	***	***	***	***	***	***
Taylor-Dunn	***	***	***	***	***	***	***	***	***
Nordco Marketeer	***	***	***	***	***	***	***	***	***
All other 1/	***	***	***	***	***	***	***	***	***
Total	40,188	45,666	50,352	50,548	44,806	50,014	46,949	53,845	52,889
	Percentage of total								
E-Z-Go	***	***	***	***	***	***	***	***	***
Harley-Davidson	***	***	***	***	***	***	***	***	***
Club Car	***	***	***	***	***	***	***	***	***
Taylor-Dunn	***	***	***	***	***	***	***	***	***
Nordco Marketeer	***	***	***	***	***	***	***	***	***
All other 1/	***	***	***	***	***	***	***	***	***
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

1/ Figures for 1975-79 are understated because of lack of data from firms which have gone out of business and firms which have not responded to questionnaires.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

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The first of the three companies to enter the industry and stay was Go-Fore, Inc., a small producer of electric cars which appeared in the early 1970's. The second was Davis 500, Inc., which began producing a 4-wheel electric car in 1977. Davis has an annual production capacity of * * * cars, but has yet to produce much over * * * cars per year. The newest producer in the industry is Eagle Vehicles, Inc., a subsidiary of Sammons Enterprises, which for years has also owned a major golf car distributor, Rose Products, Inc. Eagle Vehicles began producing a 4-wheel electric car in 1979. With an estimated production capacity of * * * cars per year and established distributor outlets, Eagle Vehicles is capable of becoming a major golf car producer.

The declining profitability of the industry induced a change in ownership for three U.S. producers. Westinghouse Electric Corp. sold its electric vehicle division to HMK in January 1976. However, according to officials of Nordco Marketeer, HMK was forced to discontinue production because of competition from the lower-priced Melex cars and HMK returned the golf car assets to Westinghouse in 1977. Nordskog Industries, Inc., purchased the facility in January 1978 and became Nordco Marketeer which now produces golf cars only to help pay overhead. 1/ American Continental, Inc., is a small producer of both gas and electric cars. The golf car business was purchased in December 1979. Club Car, Inc., originally a division of Johns Manville Corp., was purchased on March 1, 1978 by a group of eight former executives of E-Z-Go. Adopting E-Z-Go's practices of using factory-owned dealerships 2/ and aggressive pricing, the firm has sharply increased its sales and is now the * * * largest U.S. producer of golf cars.

Harley-Davidson and E-Z-Go are the major U.S. producers and the only significant producers of both gas and electric cars.

* * * * * * *

E-Z-Go was the first firm to sell and lease a significant number of its cars directly to end-users through factory-owned dealerships, a practice which was started in 1971.

* * * * * * *

1/ Information obtained from two letters submitted to the Commission from Nordco Marketeer. One dated Feb. 26, 1980, was signed by Mr. R.C. Gray, Asst. V.P. and General Manager. The other dated Feb. 22, 1980, was signed by Mr. Joe C. Camp, Marketing Director.

2/ Club Car, Inc., opened its first factory-owned dealership late in 1978.

* * * * * * *

U.S. importers

Polish golf cars have been imported by seven firms. Melex cars were first imported by Products International, Inc., in 1971. Products International introduced the Poles to U.S. golf cars and engineered a manufacturing agreement for the production and sale of the cars. Products International dissolved in 1973, however, leaving the Poles with a number of contractual obligations to U.S. dealers. The Polish manufacturer decided to continue the business, and Melex dealers subsequently became the importers of record. Still, Pezetel, the state-trading organization for this product, felt the need for a U.S. marketing representative. Thus, Melex, USA, a wholly owned subsidiary of Pezetel, was created in 1974 and became the sole importer of record in June 1975.

Melex is a small firm with a total staff of * * *. Its responsibilities consist of coordinating and marketing imports of golf cars, agricultural aircraft, diesel engines, and their various coincidental parts. Historically, Melex's business has primarily relied on imports of golf cars. However, management expects this reliance to dwindle in coming years. Golf cars accounted for roughly * * * percent of sales in 1979 and that figure is expected to decline to * * * percent in 1980.

Melex's primary function with respect to golf cars is to line up reputable dealers and maintain a nation wide distribution system. Melex adds no value to the imports and the services provided to its dealers are limited to maintaining an adequate inventory of spare parts, training personnel from dealerships and clubs to service the cars, and promoting Melex golf cars on an industry wide level. Melex provides no assistance to its dealers either for floor planning or inventory control. Melex offers its dealers a 1- or 2-year contract which specifies the quantity and price of the cars to be purchased over the term of the contract. The form of payment stipulated in the dealers' contract is either cash or an irrevocable letter of credit, as opposed to the usual practice of allowing the dealer 30 days from receipt of the golf cars before payment is due.

Channels of distribution

Despite the increasing number of factory-direct sales by Club Car and E-Z-Go, nearly * * * of U.S. producers' sales of golf cars are still made to distributors or dealers (table 3). Golf car dealers differ greatly, but their purchases of golf cars are based on contracts or franchises which are sales agreements between the producer and the dealer outlining their mutual obligations. The end users of golf cars are actually golfers, nonetheless, virtually all golfers rent cars from the golf courses rather than buying their own. The golf courses, whether public or private, generally purchase fleets

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Table 3.--Golf cars: U.S. producers' sales to end users and to distributors, by types, 1977-79

Year	Electric cars			Gas cars			Total, electric and gas		
	End users	Distributors	Total	End users	Distributors	Total	End users	Distributors	Total
	Quantity (units)								
1977	***	***	***	***	***	***	***	***	***
1978	***	***	***	***	***	***	***	***	***
1979	***	***	***	***	***	***	***	***	***
	Percentage of total								
1977	***	***	100.0	***	***	100.0	***	***	100.0
1978	***	***	100.0	***	***	100.0	***	***	100.0
1979	***	***	100.0	***	***	100.0	***	***	100.0

ource: Compiled from data submitted in response to questionnaires of the U. S. International Trade Commission.

of cars on the basis of competitive bids submitted by independent dealers or factory outlets.

As noted above, factory-owned dealerships are becoming increasingly important in the golf car market. In the last 3 years alone, the market share represented by factory-direct sales has increased by * * * percent. Factory-direct sales of both gas and electric cars amounted to * * * cars, representing * * * percent of U.S. sales in 1977, and rose to * * * cars, representing * * * percent of the market, in 1979. The share of the electric car market represented by factory-direct sales is larger than that for the total golf car market, however, it is increasing at a slower rate. Sales of electric cars directly to end users increased from * * * units representing * * * percent of total domestic sales of electric cars in 1977 to * * * units representing * * * percent of domestic sales of electric cars in 1979. This represents a * * * percent increase in the factory-direct share of the electric car market. In contrast, the market share represented by factory-direct sales of gas cars is considerably smaller than that for all domestic golf cars, but is increasing at a much faster rate. Sales of gas cars directly to end users increased from * * * units representing * * * percent of total domestic sales of gas cars in 1977 to * * * units representing * * * percent of domestic sales in 1979. This represents a * * * percent increase in the factory-direct share of the gas car market.

The significance of factory-owned dealerships is not, however, represented by the number of their sales alone. The real advantage of these outlets is the elimination of a middleman from the chain of distribution. Although the factory-owned dealerships require the same capital investment and have the same expenses and responsibilities as independent dealerships, they do not have to be as profitable in order to continue doing business. Thus, factory outlets can and do offer cars at prices below those offered by their independent dealers. This has contributed significantly to the competitive atmosphere in the golf car market, especially in the market for electric cars.

Independent golf car dealers often carry a variety of merchandise. Some deal exclusively in golf cars, and generally offer a variety of golf car lines. However, most golf car dealers carry other merchandise in addition to golf cars, which may or may not be related to golf. For example, there are "turf" dealers that cater to the total needs of the golf course by offering golf cars along with a variety of turf maintenance equipment and supplies. There are also a number of dealers that primarily sell motorcycles, and dealers that deal in batteries, as well as dealers that offer a wide variety of small, outdoor equipment. Most of these dealers carry one brand of golf cars exclusively.

U.S. producers' prices to their dealers are standard, f.o.b. the point of manufacture and include specified parts, equipment, and normally a 1 year limited warranty. The prices are generally specified in the dealer franchises or sales agreements. However, these are generally 1- or 2-year agreements, and in recent years provisions have been made for announced price increases.

The sales agreement obligates the producer to provide the specified number of cars and spare parts, as well as a certain amount of marketing support. The larger producers offer a variety of support services, such as

training of service and sales personnel, assistance with floor planning and inventory control, and financing assistance.

The sales agreement obligates the dealer to market and service the cars within a suggested territory. This generally implies that a show room and a service center with trained mechanics and an adequate inventory of spare parts must be maintained. These dealer obligations are also shared by the factory-owned dealerships.

Head-to-head competition between brands and between independent dealers and factory outlets occurs when golf cars are sold to private clubs or public courses. These establishments view a golf car as an investment and the price they might be willing to pay depends on the expected return or the amount of use which can be derived from the car. The factors to be considered in making a purchase are as follows:

1. The type of car most suited to the course,
2. The quality of the car (how well it stands up to heavy use),
3. The serviceability of the car (if something goes wrong, will it be repaired quickly and for a reasonable price), and
4. The price.

Public golf courses are not only required to open their golf car acquisitions to public bidding, but also to accept the lowest bid for a car meeting the course's specifications. In contrast, bidding at the private clubs is often by invitation only, and the golf pro has more freedom to weigh the quality and serviceability of the cars when making his decision. A golf car dealer must actively pursue these bids at the clubs and courses in order to get his bids accepted.

Foreign Producers

There are only two significant producers of golf cars outside the United States--Yamaha Motor Co., Ltd. (Yamaha Hatsudoki) and Pezetel (WSK PZL-Mielec). Both of these firms export their product to the United States.

Yamaha is a Japanese firm whose primary business interests are the production and export of motorcycles, boats, and outboard motors. It began exporting a 4-wheel gas golf car in 1978 and introduced a 4-wheel electric car in 1979. Although Yamaha utilizes a number of its motorcycle dealerships to distribute its golf cars, most of its cars are channeled into the market through independent golf car dealers.

Pezetel is the state-trading organization for PZL, the industrial group of the Polish Aviation and Engine Industry. The PZL industrial union employs more than * * * persons in the manufacture of transportation-related products. The WSK factory where Melex cars are produced employs more than * * * people. Roughly * * * percent of WSK's production is accounted for by aircraft and * * * percent by diesel engines. Golf cars and other miscellaneous products account for the remainder. Approximately * * * percent of the factory's output including virtually all golf cars is exported to the United States.

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The PZL industrial group began producing 3- and 4-wheel electric golf cars in 1971. Although the production process is a very efficient one, there have been a number of problems associated with the product. Because of the size and diversity of the production facilities, the factory can utilize highly mechanized equipment in the production of golf car components, thereby reducing both component and labor costs. The Melex golf car, which was specifically tailored for the U.S. market, encountered allegations of antitrust violations and became the subject of antidumping proceedings in 1975. According to officials of Melex, USA, these legal complications have damaged Melex's reputation in the market and significantly added to the cost of selling Melex cars in the United States. The annual production capacity of the PZL industrial group has been 10,000 cars since 1972. Officials of Melex, USA, have advised the Commission that PZL has no plans to expand its golf car capacity. 1/

The Question of Injury or Likelihood Thereof

U.S. production, producers' sales and leases, and exports

U.S. production of golf cars from 1971 to 1979 may be divided into two periods--one of growth and one of stabilization. U.S. production of golf cars increased from 40,200 in 1971 to 50,500 in 1974, or by 26 percent (table 2). However, examination of the annual data reveals a declining rate of growth. From 1971 to 1972, U.S. golf car producers increased their output by 5,500 units, or 14 percent. In 1973, U.S. production increased by another 4,700 cars, but by only 10 percent from the previous year. Only 200 more golf cars were produced in 1974 than in 1973, which represents an increase of only 0.4 percent.

Production data for 1975-79 are understated due to the lack of data from several small producers, some of which have left the industry. The most serious shortages of information occur in 1975-77, when the production of those companies which have since left the industry was still significant. It is possible that the 1975-77 data on U.S. production may be understated by as much as 10 percent. However, the data for 1975-79, indicate that although U.S. production of golf cars has varied considerably, it seems to be stabilizing at a level only slightly higher than the 1974 level of production. In 1978, 54,000 cars were produced, reflecting an increase of only 6 percent more than the number produced in 1974. However, in 1979, U.S. golf car production declined to 53,000 units, or by 2 percent from the previous year.

Unfortunately, the missing data previously referred to are especially relevant to the examination of the production figures for electric golf cars, since the missing or delinquent producers were or are producers of electric cars. Nonetheless, certain trends in U.S. production of electric cars are apparent (table 4). The number of electric cars produced increased steadily from 26,300 units in 1971 to 38,000 units in 1974, or by 44 percent. The production of electric cars apparently dropped off sharply in 1975, and then increased, though irregularly, to * * * units in 1979. However, the 1979 level of production is still * * * percent less than the 1974 level.

1/ This statement was challenged by counsel for Harley-Davidson at the Apr. 16, 1980, hearing on the case.

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Table 4.--Golf cars: U.S. production, by types and firms, 1971-79

Year	Electric cars							Gas cars			
	Harley-Davidson	E-Z-Go	Club Car	Taylor-Dunn	Nordco Marketeer	Other 1/	Total	Harley-Davidson	E-Z-Go	OMC/ Amer. Cont.	Total
	Production (units)										
1971	***	***	***	***	***	***	26,274	***	***	***	13,914
1972	***	***	***	***	***	***	29,212	***	***	***	16,454
1973	***	***	***	***	***	***	31,268	***	***	***	19,084
1974	***	***	***	***	***	***	37,968	***	***	***	12,580
1975	***	***	***	***	***	***	***	***	***	***	***
1976	***	***	***	***	***	***	***	***	***	***	***
1977	***	***	***	***	***	***	***	***	***	***	***
1978	***	***	***	***	***	***	***	***	***	***	***
1979	***	***	***	***	***	***	***	***	***	***	***
	Percentage of total										
1971	***	***	***	***	***	***	100.0	***	***	***	100.0
1972	***	***	***	***	***	***	100.0	***	***	***	100.0
1973	***	***	***	***	***	***	100.0	***	***	***	100.0
1974	***	***	***	***	***	***	100.0	***	***	***	100.0
1975	***	***	***	***	***	***	100.0	***	***	***	100.0
1976	***	***	***	***	***	***	100.0	***	***	***	100.0
1977	***	***	***	***	***	***	100.0	***	***	***	100.0
1978	***	***	***	***	***	***	100.0	***	***	***	100.0
1979	***	***	***	***	***	***	100.0	***	***	***	100.0

1/ Figures for 1975-79 are understated due to lack of data from firms which have gone out of business and firms which have not responded to questionnaires.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

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U.S. production of gas cars peaked in 1976--2 years later than the production of electric cars. Data on gas car production, which are essentially complete, indicate a general increase of *** percent, from 13,900 units in 1971 to * * * units in 1976, despite a sharp drop in 1974 which was the result of a 14-week strike at the Harley-Davidson plant. U.S. production of gas cars subsequently declined without interruption to * * * units in 1979, representing a decline of * * * percent from 1976.

U.S. production of gas cars as a share of total domestic golf car production followed a similar pattern. U.S. production of gas cars represented 35 percent of total domestic golf car production in 1971 and increased to a peak of * * * percent in 1976, despite a drop in 1974. Since 1976, however, U.S. production of gas cars has declined steadily as a percent of total domestic golf car production, representing only * * * percent of the total in 1979.

U.S. producers' domestic sales and leases of new golf cars have generally followed the pattern set by U.S. production, although the trends for all golf cars and electric golf cars are not as positive (table 5). U.S. producers' domestic sales and leases of golf cars increased at a declining rate from 41,500 in 1971 to 50,400 units in 1974, or by 22 percent. However, total domestic sales and leases of golf cars increased irregularly to 51,400 in 1979, or by 2 percent from the 1974 figure. U.S. producers' domestic sales of electric cars increased from 28,600 units in 1971 to 38,000 units in 1974, or by 33 percent. U.S. producers' domestic sales of electric cars dropped off in 1975, but increased irregularly to * * * units in 1979. This represents a decline of * * * percent from the 1974 figure. U.S. producers' domestic sales of gas cars increased irregularly from 12,800 units in 1971 to a peak of * * * units in 1976, or by * * * percent, before declining to * * * units in 1979, or by * * * percent.

During the period 1971-79, U.S. exports of golf cars have been relatively insignificant, however, they are increasing (table 6). In 1971, U.S. exports amounted to * * * cars and accounted for * * * percent of U.S. producers' sales and leases of golf cars. By 1979, U.S. exports had increased to * * * cars accounting for * * * percent of U.S. producers' sales and leases. Although electric and gas cars have made different and varying contributions to total U.S. exports during the period under consideration, it appears that gas cars have generally been in higher demand. U.S. exports of gas cars have, on the average, accounted for * * * percent of total U.S. exports of golf cars.

Capacity and capacity utilization

During the period under consideration, U.S. producers' total capacity has varied each year, illustrating the dynamic nature of the industry. 1/ Despite this variation, two general trends are discernable. U.S. producers' capacity increased from 110,000 units in 1971 to a peak of 123,000 units in 1975, or by 12 percent (table 7). Since 1975, however, the industry's capacity has decreased, though irregularly, to 106,000 units in 1979, or by 14 percent from

1/ Unlike U.S. production and producers' shipments data presented in this report, capacity data are believed to reflect nearly all producers' operations.

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Table 5.--Golf cars: U.S. producers' domestic sales and leases, imports for consumption, and apparent U.S. consumption, by types of cars, 1971-79

Period	U.S. producers' domestic sales and leases	Imports: From Poland	Imports: From Japan	Imports: Total	Apparent U.S. consumption	Ratio of imports to consumption: From Poland	Ratio of imports to consumption: From Japan	Ratio of imports to consumption: Total
	Units					Percent		
Electric golf cars:								
1971	28,649	959	0	959	29,608	3.2	-	3.2
1972	31,562	2,799	0	2,799	34,361	8.1	-	8.1
1973	32,378	6,087	0	6,087	38,465	15.8	-	15.8
1974	38,017	6,897	0	6,897	44,914	15.4	-	15.4
1975	***	9,982	0	9,982	***	***	-	***
1976	***	6,331	0	6,331	***	***	-	***
1977	***	6,694	0	6,694	***	***	-	***
1978	***	9,810	0	9,810	***	***	-	***
1979	***	5,220	***	***	***	***	***	***
Gas golf cars:								
1971	12,836	0	0	0	12,836	-	-	-
1972	16,041	0	0	0	16,041	-	-	-
1973	17,595	0	0	0	17,595	-	-	-
1974	12,389	0	0	0	12,389	-	-	-
1975	***	0	0	0	***	-	-	-
1976	***	0	0	0	***	-	-	-
1977	***	0	0	0	***	-	-	-
1978	***	0	***	***	***	-	***	***
1979	***	0	***	***	***	-	***	***
Total electric and gas golf cars:								
1971	41,485	959	0	959	42,444	2.3	-	2.3
1972	47,603	2,799	0	2,799	50,402	5.6	-	5.6
1973	49,973	6,087	0	6,087	56,060	10.9	-	10.9
1974	50,406	6,897	0	6,897	57,303	12.0	-	12.0
1975	44,279	9,982	0	9,982	54,261	18.4	-	18.4
1976	47,699	6,331	0	6,331	54,030	11.7	-	11.7
1977	44,486	6,694	0	6,694	51,180	13.1	-	13.1
1978	51,347	9,810	***	***	***	***	***	***
1979	51,436	5,220	***	***	***	***	***	***

Source: U.S. producers' domestic sales and leases and imports from Japan, compiled from data submitted in response to questionnaires of the U.S. International Trade Commission; Imports from Poland, compiled from official statistics of the U.S. Department of Commerce.

the 1975 peak. This indicates a contraction of 4 percent in U.S. golf car capacity for 1971-79.

Table 6.--Golf cars: U.S. exports, by types, 1971-79

(Units)

Type or car	1971	1972	1973	1974	1975	1976	1977	1978	1979
Electric	***	***	***	***	***	***	***	***	***
Gasoline	***	***	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***	***	***

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Two notable and complementary trends are also evident in the composition of the U.S. golf car industry's capacity during this period. These are illustrated by the steady decline in "all other" producers' capacity and the steady increase in * * *. The all other category includes the data available for all producers with an annual production capacity of 1,000 units or less and all producers that have entered and/or exited the industry over the years under consideration. The share of total industry capacity accounted for by these firms declined steadily from * * * percent in 1971 to * * * percent in 1979, or by 85 percent. In contrast, * * *.

During the period covered in this investigation, capacity utilization for the golf car industry has been erratic. Capacity utilization increased from 37 percent in 1971 to 48 percent in 1973, but then declined to 36 percent in 1975. It then increased, though irregularly, to a period high of 52 percent in 1978 before declining slightly to 50 percent in 1979. All U.S. producers have experienced the problem of excess capacity, and most producers operate their golf car facilities on a 5-day work week, single shift basis. However, * * * golf car producers, * * * all use mutiple shifts to some extent in the manufacturing process.

U.S. employment

Several trends are apparent from the data on employment in the golf car industry (table 8). 1/ From 1975 to 1979, the number of all persons employed in U.S. establishments producing golf cars appears to have increased. The number of all employees in U.S. producers' establishments increased steadily from * * * in 1975 to 1,423 in 1979, or by * * * percent. The average number of all production and related workers producing golf cars also appears to be

1/ Employment figures from 1975 to 1977 are significantly understated. In addition to the information from producers previously alluded to, employment information from Club Car, Inc., and Nordco Marketeer do not include data from these years. Because of changes in ownership, this information was not available.

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Table 7.--Golf cars, electric and gas: U.S. production, capacity, and capacity utilization, by firms, 1971-79

Firm	1971	1972	1973	1974	1975	1976	1977	1978	1979
	Production (units)								
E-Z-Go	***	***	***	***	***	***	***	***	***
Harley-Davidson	***	***	***	***	***	***	***	***	***
Club Car	***	***	***	***	***	***	***	***	***
Taylor-Dunn	***	***	***	***	***	***	***	***	***
Nordco Marketeer	***	***	***	***	***	***	***	***	***
All other 1/	***	***	***	***	***	***	***	***	***
Total	40,188	45,666	50,352	50,548	44,806	50,014	46,948	53,845	52,889
	Capacity (units) 2/								
E-Z-Go	***	***	***	***	***	***	***	***	***
Harley-Davidson	***	***	***	***	***	***	***	***	***
Club Car	***	***	***	***	***	***	***	***	***
Taylor-Dunn	***	***	***	***	***	***	***	***	***
Nordco Marketeer	***	***	***	***	***	***	***	***	***
All other	***	***	***	***	***	***	***	***	***
Total	109,771	109,642	105,087	122,097	122,828	110,000	112,300	103,700	105,850
	Capacity utilization (percent)								
E-Z-Go	***	***	***	***	***	***	***	***	***
Harley-Davidson	***	***	***	***	***	***	***	***	***
Club Car	***	***	***	***	***	***	***	***	***
Taylor-Dunn	***	***	***	***	***	***	***	***	***
Nordco Marketeer	***	***	***	***	***	***	***	***	***
All other 1/	***	***	***	***	***	***	***	***	***
Average	36.6	41.7	47.9	41.4	36.5	45.5	41.8	51.9	50.0

1/ Figures for 1975-79 are understated due to lack of data from firms that have gone out of business and firms that have not responded to questionnaires.

2/ Maximum potential output of golf cars per year on the basis of a 5-day work week with 2 shifts per day.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

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increasing. The number increased steadily from * * * in 1975 to 888 in 1979, or by * * * percent.

There has also been a noticeable increase in the ratio of production and related workers producing golf cars to all employees in U.S. establishments producing golf cars. In 1975, the ratio was * * * percent, and it increased steadily to 62 percent in 1979.

Table 8.--Average number of employees in U.S. establishments producing golf cars, total and all production and related workers producing golf cars, and wages paid to and man-hours worked by all production and related workers, by firms, 1975-79

Firms	1975	1976	1977	1978	1979
Average number of all employees:					
E-Z-Go	***	***	***	***	***
Harley-Davidson	***	***	***	***	***
Club Car	1/ ***	1/ ***	1/ ***	***	***
All other	***	***	***	***	***
Total	***	***	***	1,336	1,423
All production and related workers producing golf cars:					
E-Z-Go	***	***	***	***	***
Harley-Davidson	***	***	***	***	***
Club Car	1/ ***	1/ ***	1/ ***	***	***
All other	***	***	***	***	***
Total	***	***	***	856	888
Wages paid to all production and related workers:					
E-Z-Go-1,000 dollars	***	***	***	***	***
Harley-Davidson-do	***	***	***	***	***
Club Car-------do	1/ ***	1/ ***	1/ ***	***	***
All other-------do	***	***	***	***	***
Total---------do	***	***	***	3,968	4,766
Man-hours worked by all production and related workers:					
E-Z-Go---1,000 hours	***	***	***	***	***
Harley-Davidson-do	***	***	***	***	***
Club Car--------do	1/ ***	1/ ***	1/ ***	***	***
All other-------do	***	***	***	***	***
Total---------do	***	***	***	768	829

1/ Club Car, Inc., was purchased from Johns Manville Corp. in 1978. Data for the years 1975-77 are not available to the present owners.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Aggregate wages paid to all production and related workers producing golf cars have generally increased during the period under consideration, despite a sharp drop in wages for 1977. Wages increased from * * * million in 1975 to $4.8 million in 1979, or by * * * percent. The decline in 1977 wage data disappears when * * * figures are removed. The trend in wages paid to the production and related workers of the other U.S. producers is clearly increasing.

The same trend holds for man-hours worked by all production and related workers producing golf cars. The aggregate figures fluctuated, decreasing from * * * in 1975 to * * * in 1977, or by * * * percent, then rebounding to 829,000 in 1979, increasing by * * * percent from the 1975 level. However, the man-hours worked by the production and related workers of U.S. producers other than * * * increased steadily over the period.

Employment data for U.S. producers of golf cars are broken out by types of cars in table 9. The data delineate significantly different trends for electric and gas cars. The number of all production and related workers producing electric cars increased steadily from * * * in 1975 to * * * in 1979, or by * * * percent. Wages paid to all production and related workers producing electric cars increased dramatically from * * * in 1975 to $2.8 million in 1979, or by * * * percent. Similarly, man-hours worked by all production and related workers producing electric cars increased from * * * in 1975 to * * * in 1979, or by * * * percent.

In contrast, although the number of production and related workers producing gas cars increased by * * * percent from 1975 to 1979, wages paid to these workers declined by * * * percent and man-hours worked by these employees declined by * * * percent.

U.S. inventories

U.S. producers' end-of-period inventories for 1975-79 are shown in table 10. Owing to the lack of data mentioned earlier, no conclusions based on quantity can be drawn. However, certain conclusions can be drawn on the basis of the ratio of inventories to sales, since these figures reflect information obtained from U.S. producers which accounted for 86 percent of U.S. golf car production in 1975-77 and 96 percent in 1978 and 1979. For 1975-79, the ratio of inventories to sales of golf cars increased. The ratio increased steadily from 2.5 percent in 1975 to 7.0 percent in 1978, but dropped to 3.5 percent in 1979.

The ratio of inventories to sales of electric cars has also increased over the period. The ratio for electric cars increased from * * * percent in 1975 to * * * percent in 1977, and then declined to * * * percent in 1979.

Inventory levels for gas cars have been lower and more stable than those for electric cars. Nonetheless, the ratio of inventories to sales of gas cars has followed a similar pattern. The ratio for gas cars increased from * * * percent in 1975 to * * * percent in 1978, before dropping to * * * percent in 1979.

Table 9.--Average number of production and related workers in U.S. establishments producing golf cars, and wages paid to and man-hours worked by all production and related workers, by types of golf cars and firms, 1975-79

Year	Electric cars 1/					Gas cars 1/		
	Harley-Davidson	E-Z-Go	Club Car	All other	Total	Harley-Davidson	E-Z-Go	Total
All production an related workers producing golf cars:								
1975	***	***	***	***	***	***	***	***
1976	***	***	***	***	***	***	***	***
1977	***	***	***	***	***	***	***	***
1978	***	***	***	***	***	***	***	***
1979	***	*** *	***	***	***	***	***	***
Wages paid to all production and related workers:								
1975------1,000 dollars--	***	***	***	***	***	***	***	***
1976----------do----	***	***	***	***	***	***	***	***
1977----------do----	***	***	***	***	***	***	***	***
1978----------do----	***	***	***	***	***	***	***	***
1979----------do----	***	***	***	***	***	***	***	***
Man-hours worked by all production and related workers:								
1975--------1,000 hours--	***	***	***	***	***	***	***	***
1976----------do----	***	***	***	***	***	***	***	***
1977----------do----	***	***	***	***	***	***	***	***
1978----------do----	***	***	***	***	***	***	***	***
1979----------do----	***	***	***	***	***	***	***	***

1/ Data from OMC and American Continental, Inc., cannot be broken out by types of golf cars and were therefore excluded from the data presented above.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

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Table 10.--Golf cars: U.S. producers' inventories, by types, as of Dec. 31, 1975-79

Item	1975	1976	1977	1978	1979
Inventories: 1/					
Of electric cars----------units--	***	***	***	***	***
Of gas cars----------do----	***	***	***	***	***
Total----------do----	861	1,435	2,413	3,373	1,671
Ratio of inventories to sales:					
Of electric cars----------percent---	***	***	***	***	***
Of gas cars----------do----	***	***	***	***	***
Total----------do----	2.5	3.8	6.6	7.0	3.5

1/ Figures for 1975-79 are significantly understated because of lack of questionnaire response.

Source: Compiled from data collected in response to questionnaires of the U.S. International Trade Commission.

Financial performance of U.S. producers

It is apparent from the selected financial data on U.S. producers' golf car operations presented in table 11 that, despite increasing sales, the profitability of the industry has declined over the period under consideration. With the exception of 1975, net sales increased steadily from $41.5 million in 1971 to $100.5 million in 1979, or by 142 percent. The cost of goods sold, however, increased at a faster rate. Again, with the exception of 1975, the cost of goods sold increased steadily from $31.3 million in 1971 to $83.1 million in 1979, or by 166 percent. Similarly, general, selling, and administrative expenses have increased every year except 1975, rising from $5.5 million in 1971 to $13.9 million in 1979, or by 152 percent.

The net result has been a general decline in the net operating profit of U.S. golf car producers. Net operating profit increased from $4.7 million in 1971 to $5.1 million in 1972, but then declined sharply to a net operating loss of $103,000 in 1974. Profits were restored in 1975, and by 1978 the net operating profit had rebounded to $5.8 million. In 1979, however, profits amounted to only $3.5 million, declining by 38 percent from the previous year.

The industry's profitability, as reflected by the ratio of net operating profit to net sales, can be characterized by three phases: a rapid decline during 1971-74; improvement from 1974 to 1977; followed by a deterioration during 1977-79. In 1971 and 1972, the ratio of net operating profit to net sales was at a high of 11.3 percent. However, the industry's profitability subsequently declined sharply, and in 1974, the ratio reached a low of negative 0.2 percent. The ratio then increased steadily to 7.6 percent in 1977 before declining to 3.5 percent in 1979. This represents a 69 percent decline in the golf car industry's ratio of net operating profit to net sales from 1971 to 1979.

Table 11.--Profit-and-loss experience of U.S. producers of electric and gas golf cars on their golf car operations, 1971-79

Year	Net sales	Cost of goods sold	Gross profit	General, selling, and administrative expenses	Net operating profit or (loss)	Ratio of net operating profit or (loss) to net sales	Ratio of cost of goods sold to net sales
	1,000 dollars					Percent	
1971	41,470	31,273	10,197	5,495	4,702	11.3	75.4
1972	45,439	34,514	10,925	5,782	5,143	11.3	76.0
1973	53,670	42,693	10,977	6,408	4,569	8.5	79.5
1974	56,497	48,660	7,837	7,940	(103)	(0.2)	86.1
1975	***	***	***	***	***	***	***
1976	69,022	56,182	12,840	9,368	3,472	5.0	81.4
1977	75,427	58,306	17,121	11,424	5,697	7.6	77.3
1978	91,308	72,266	19,042	13,281	5,761	6.3	79.1
1979	100,526	83,123	17,403	13,858	3,545	3.5	82.7

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

The ratio of the cost of goods sold to net sales of golf cars increased from 75 percent in 1971 to 86 percent in 1974, or by 14 percent. The ratio then declined to 77 percent in 1977 before increasing to 83 percent in 1979.

The golf car industry's overall profitability is the result of U.S. producers' operations on both gas and electric cars (table 12). However, profitability by type of car has varied significantly during 1975-79. Available data indicate that the industry's operations on gas cars incurred losses of * * * in 1975. Profitability was restored in 1976, and the ratio of net operating profits to net sales increased from a negative * * * percent in 1975 to * * * percent in 1977. However, the profitability on gas car operations then deteriorated to * * * percent in 1979. Surprisingly, the ratio of cost of goods sold to net sales of gas cars declined steadily from * * * percent in 1975 to * * * percent in 1978 and increased only slightly to * * * percent in 1979.

In contrast, available data indicate that U.S. producers' operations on electric cars remained more profitable than those on gas cars with the exception of 1977 and 1979. In 1975, operations on electric cars produced a net operating profit of * * * resulting in a ratio of net operating profits to net sales of * * * percent. The ratio then increased steadily to * * * percent in 1978 before dropping sharply to * * * percent in 1979. The ratio of the cost of goods sold to net sales also presents a significantly different trend than that for gas cars. The ratio declined from * * * percent in 1975 to * * * percent in 1977, or by * * * percent. The ratio for electric cars then increased to * * * percent in 1979, or by * * * percent, but remained only slightly above the 1975 figure.

* * * * * * *

The Question of the Causal Relationship Between LTFV Imports and the Likelihood of Injury

U.S. imports and market penetration of imports

Golf cars have entered the United States from only two countries, Poland and Japan (table 13). The Poles began to export Melex golf cars, which are

Table 12.--Profit-and-loss experience of selected U.S. producers of electric and gas golf cars on their gas and electric golf car operations, by firms, 1975-79

Year and firms	Net sales	Cost of goods sold	Gross profit or (loss)	General, selling, and administrative expenses	Net operating profit or (loss)	Ratio of net operating profit or (loss) to net sales	Ratio of cost of goods sold to net sales
	1,000 dollars	1,000 dollars	1,000 dollars	1,000 dollars	1,000 dollars	Percent	Percent
Operations on electric cars:							
1975:							
E-Z-Go	***	***	***	***	***	***	***
Harley-Davidson	***	***	***	***	***	***	***
Club Car 1/	***	***	***	***	***	***	***
Davis 500 2/	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***
1976:							
E-Z-Go	***	***	***	***	***	***	***
Harley-Davidson	***	***	***	***	***	***	***
Club Car	***	***	***	***	***	***	***
Davis 500 2/	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***
1977:							
E-Z-Go	***	***	***	***	***	***	***
Harley-Davidson	***	***	***	***	***	***	***
Club Car	***	***	***	***	***	***	***
Davis 500 2/	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***
1978:							
E-Z-Go	***	***	***	***	***	***	***
Harley-Davidson	***	***	***	***	***	***	***
Club Car	***	***	***	***	***	***	***
Davis 500	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***
1979:							
E-Z-Go	***	***	***	***	***	***	***
Harley-Davidson	***	***	***	***	***	***	***
Club Car	***	***	***	***	***	***	***
Davis 500	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***
Operations on gas cars:							
1975:							
E-Z-Go	***	***	***	***	***	***	***
Harley-Davidson	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***
1976:							
E-Z-Go	***	***	***	***	***	***	***
Harley-Davidson	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***
1977:							
E-Z-Go	***	***	***	***	***	***	***
Harley-Davidson	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***
1978:							
E-Z-Go	***	***	***	***	***	***	***
Harley-Davidson	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***
1979:							
E-Z-Go	***	***	***	***	***	***	***
Harley-Davidson	***	***	***	***	***	***	***
Total	***	***	***	***	***	***	***

1/ Club car, Inc. was purchased from Johns Manville Corp. in 1977. Data are not available to present owners.
2/ Davis 500 began producing golf cars in 1977.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

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Table 13.--Golf cars: U.S. imports for consumption, by countries and by types, 1971-79

Item and source	1971	1972	1973	1974	1975	1976	1977	1978	1979
	Quantity (units)								
Golf cars:									
From Poland, electric	959	2,799	6,087	6,897	9,982	6,331	6,694	9,810	5,220
From Japan:									
Electric	0	0	0	0	0	0	0	0	***
Gas	0	0	0	0	0	0	0	***	***
Total	959	2,799	6,087	6,897	9,982	6,331	6,694	***	***
	Value (1,000 dollars)								
Golf cars:									
From Poland, electric	357	1,143	2,397	3,389	6,621	5,083	5,556	8,214	5,023
From Japan:									
Electric	-	-	-	-	-	-	-	-	***
Gas	-	-	-	-	-	-	-	***	***
Total	357	1,143	2,397	3,389	6,621	5,083	5,556	***	***

Source: Imports from Poland, compiled from official statistics of the U.S. Department of Commerce; Imports from Japan, compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

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electric cars, to the United States in 1971, and in that year 959 cars entered the domestic market. Thereafter, imports from Poland increased rapidly until 1975, when 10,000 Melex cars were imported. Imports of Polish golf cars dropped to 6,000 units in 1976 following the finding of dumping, but increased to nearly 10,000 again in 1978, or by 55 percent. In 1979, however, imports from Poland dropped sharply to 5,200 units, or by 47 percent from the 1978 level. This drop in imports was primarily due to cut backs by two major distributors of Melex cars- * * * .

* * * * * * *

The ratio of imports from Poland to apparent U.S. consumption followed a trend similar to that of imports (table 5). The ratio of imports to apparent U.S. consumption of gas and electric cars, increased steadily from 2 percent in 1971 to a peak of 18 percent in 1975, but dropped to 12 percent in 1976. From 1976 to 1978, the ratio of imports of Melex cars to apparent U.S. consumption of all golf cars increased to 15 percent before falling to * * * percent in 1979. The ratio of imports from Poland to apparent U.S. consumption of electric cars has been consistently higher, but has followed a similar pattern. The ratio increased from 3 percent in 1971 to a peak of * * * percent in 1975, and dropped to * * * percent in 1976. The ratio then increased to * * * percent in 1978 before falling to * * * percent in 1979.

Japan began to export a gas golf car to the United States in 1978 and an electric model in 1979. The gas car has been well accepted. Imports of the Japanese gas car * * * in the second year, increasing from roughly * * * cars in 1978 to roughly * * * cars in 1979. In 1979, * * * electric cars were imported from Japan. Imports from Japan also increased substantially as a ratio of apparent U.S. consumption of all golf cars. The ratio increased from * * * percent in 1978 to * * * percent in 1979, or by * * * percent. The ratio of imports of the Japanese gas car to apparent U.S. consumption of gas cars increased from * * * percent in 1978 to * * * percent in 1979, or by * * * percent. Yamaha is now * * * in the volume of gas car sales made in the United States. The Yamaha electric car accounted for * * * percent of apparent U.S. consumption of electric cars in 1979.

Prices

Quarterly pricing information for 1977-79 was requested from U.S. importers, producers, and a number of dealers or distributors of golf cars. Importers and producers submitted the lowest net selling price on sales to distributors or dealers, which were confirmed in virtually all cases by the distributors' or dealers' reported lowest net purchase prices. This consistency is to be expected, since it is an industry wide practice to offer golf cars at standard prices to all dealers and distributors. Usable data were received on the prices of seven U.S. golf car producers to their dealers or distributors. During 1977-79, these firms accounted for about 95 percent of U.S. golf car production.

The standard equipment included with a golf car varies between brands. Therefore, the prices of golf cars have been adjusted to a common basis. Prices for electric cars have been adjusted to represent fully assembled cars equipped with batteries, a battery charger, and automotive-type steering. Prices for gas cars are also adjusted to include automotive-type steering. Prices for factory-installed accessories as given on price lists were used where available to arrive at adjustment costs for the domestic products. However, for the golf cars offered by Melex, USA, Yamaha Motor Co., Ltd., and Pargo, Inc., adjustment costs were based on information obtained by telephone from three golf car dealers. The general consensus among the dealers was that adjustment costs have risen approximately 5 percent annually since 1977. Accordingly, adjustment costs for 1977 and 1978 were derived by deflating the current costs. The final adjusted prices for golf cars are shown in tables 14, 15, and 16. Graphs showing unit prices and quantities sold at those prices, by quarters, 1977-79 are given in figures 1 through 6. It should be noted that these prices have not been adjusted to reflect the differences in support services or warranties offered by U.S. producers and importers of golf cars to their distributors and dealers.

From 1973-75, Melex cars were consistently lower priced than domestic golf cars, although the margins of underselling were declining. 1/ In contrast, during 1977 and 1978. Melex cars were occasionally higher priced than some domestic models of electric cars, specifically Pargo's and American Continental's. However, Melex's prices were still lower than U.S. producers' weighted average unit prices, and the margins were increasing. By 1979, Melex was again consistently underselling all U.S. golf cars. It should be noted, however, that these prices only give an indication of what the price might be in the actual market place where direct competition between golf car brands occurs. The final price quote on a golf car is a function of many things such as trade-in allowances, the profit margin required by the individual dealers, and the size and relative importance of the sale to the dealer.

In 1973, the 3-wheel Melex car cost 15 percent less than the lowest priced domestic 3-wheel car, and in 1975 the margin of underselling declined to 6 percent. In 1977, the price of the Melex 3-wheel car was 11 percent below the weighted average unit price of domestic 3-wheel electric cars. In 1978, the margin of underselling increased to 14 percent, but declined to 13 percent in 1979.

Prices for the 4-wheel Melex car followed a similar trend. In 1973, the 4-wheel Melex car cost 17 percent less than the lowest priced domestic car, but that margin declined to 4 percent in 1975. In 1977, the Melex 4-wheel car cost 7 percent less than the weighted average unit price of domestic 4-wheel electric cars. In 1978, the margin of underselling increased to 14 percent, but declined to 11 percent in 1979.

During 1977-79, Melex's prices did not increase as fast as U.S. producers' weighted average prices for golf cars. In 1979, the weighted average unit prices for Melex 3- and 4-wheel cars were 11.3 and 11.2 percent higher than the weighted average unit prices for the respective models in

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1/ Pricing data and margins of underselling in 1973-75 were developed in the Commission's previous investigation.

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[redacted]

Table 14.--3-wheel electric golf cars: Lowest net unit prices received and quantities sold at that price, by quarters, 1977-79 1/

Year	Melex 2/	Harley-Davidson 3/	E-Z-GO Textron 4/	Nordco Marketter 5/	American Continental 6/	Pargo 7/
Unit price:						
1977:						
January-March	***	***	***	***	***	***
April-June	***	***	***	***	***	***
July-September	***	***	***	***	***	***
October-December	***	***	***	***	***	***
1978:						
January-March	***	***	***	***	***	***
April-June	***	***	***	***	***	***
July-September	***	***	***	***	***	***
October-December	***	***	***	***	***	***
1979:						
January-March	***	***	***	***	***	***
April-June	***	***	***	***	***	***
July-September	***	***	***	***	***	***
October-December	***	***	***	***	***	***
Quantities sold:						
1977:						
January-March	***	***	***	***	***	***
April-June	***	***	***	***	***	***
July-September	***	***	***	***	***	***
October-December	***	***	***	***	***	***
1978:						
January-March	***	***	***	***	***	***
April-June	***	***	***	***	***	***
July-September	***	***	***	***	***	***
October-December	***	***	***	***	***	***
1979:						
January-March	***	***	***	***	***	***
April-June	***	***	***	***	***	***
July-September	***	***	***	***	***	***
October-December	***	***	***	***	***	***

1/ Prices adjusted to reflect cars assembled, with batteries, charger, and automotive-type steering, but without canopy top.
2/ The Polish golf car is normally sold to dealers unassembled and without batteries or chargers.
3/ Adjusted for automotive-type steering.
4/ No adjustment needed.
5/ Adjusted to include batteries and delete top.
6/ Adjusted to include automotive-type steering and delete special appearance package.
7/ Adjusted to include batteries and charger. Quantity sold figures are unavailable.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and adjusted from price lists or purchaser estimates.

Table 15.--4-wheel electric golf cars: Lowest net unit prices received and quantities sold at that price, by quarters, 1977-79 1/

Year	Melex 2/	Harley-Davidson 3/	E-Z-GO Textron 3/	Club Car 3/	Nordco 4/ Marketeer	American Continental 5/	Pargo 6/	Elmco 3/	Yamaha 7/
Unit price:									
1977:									
January-March	***	***	***	***	***	***	***	***	***
April-June	***	***	***	***	***	***	***	***	***
July-September	***	***	***	***	***	***	***	***	***
October-December	***	***	***	***	***	***	***	***	***
1978:									
January-March	***	***	***	***	***	***	***	***	***
April-June	***	***	***	***	***	***	***	***	***
July-September	***	***	***	***	***	***	***	***	***
October-December	***	***	***	***	***	***	***	***	***
1979:									
January-March	***	***	***	***	***	***	***	***	***
April-June	***	***	***	***	***	***	***	***	***
July-September	***	***	***	***	***	***	***	***	***
October-December	***	***	***	***	***	***	***	***	***
Quantities sold:									
1977:									
January-March	***	***	***	***	***	***	***	***	***
April-June	***	***	***	***	***	***	***	***	***
July-September	***	***	***	***	***	***	***	***	***
October-December	***	***	***	***	***	***	***	***	***
1978:									
January-March	***	***	***	***	***	***	***	***	***
April-June	***	***	***	***	***	***	***	***	***
July-September	***	***	***	***	***	***	***	***	***
October-December	***	***	***	***	***	***	***	***	***
1979:									
January-March	***	***	***	***	***	***	***	***	***
April-June	***	***	***	***	***	***	***	***	***
July-September	***	***	***	***	***	***	***	***	***
October-December	***	***	***	***	***	***	***	***	***

1/ Prices adjusted to reflect cars assembled, with batteries, charger, and automotive-type steering, but without canopy top.
2/ The Polish golf car is normally sold to dealers unassembled and without batteries or chargers.
3/ No adjustment needed.
4/ Adjusted to include batteries and delete top.
5/ Adjusted to include automotive-type steering and delete special appearance package.
6/ Adjusted to include batteries and charger. Data on total quantity sold are unavailable.
7/ Adjusted to reflect assembly costs and include batteries.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and adjusted from price lists or purchaser estimates.

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Table 16.--3-wheel gasoline golf cars: Lowest net unit prices received and quantities sold at that price, by quarters, 1977-79 1/

	Harley-Davidson 1/	E-Z-GO, Textron
Unit price:		
1977:		
January-March	***	***
April-June	***	***
July-September	***	***
October-December	***	***
1978:		
January-March	***	***
April-June	***	***
July-September	***	***
October-December	***	***
1979:		
January-March	***	***
April-June	***	***
July-September	***	***
October-December	***	***
Quantities sold:		
1977:		
January-March	***	***
April-June	***	***
July-September	***	***
October-December	***	***
1978:		
January-March	***	***
April-June	***	***
July-September	***	***
October-December	***	***
1979:		
January-March	***	***
April-June	***	***
July-September	***	***
October-December	***	***

1/ Prices adjusted to reflect cars with automotive-type steering.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission and adjusted from price lists of purchaser estimates.

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Figure 1.--3-wheel electric golf cars: Lowest net unit prices received, by quarters, 1977-79.

[redacted]

Figure 2.--3-wheel electric golf cars: Quantities sold at lowest net unit prices, by quarters, 1977-79.

Figure 3.—4-wheel electric golf cars: Lowest net unit prices received, by quarters, 1977-79.

Figure 4.--4-wheel electric golf cars: Quantities sold at lowest net unit prices, by quarters, 1977-79.

Figure 5.--3-wheel gas golf cars: Lowest net unit prices, by quarters, 1977-79.

Figure 6.--3-wheel gas golf cars: Quantities sold at lowest net unit prices, by quarters, 1977-79.

1977. By comparison, the weighted average prices for domestic 3- and 4-wheel electric cars increased by 12.8 percent and 17.2 percent, respectively, from 1977 to 1979. The 1977-79 price increases for the * * * domestically produced electric cars were as follows:

U.S. producer	Model	Percent increase
E-Z-Go	3-wheel	***
	4-wheel	***
Harley-Davidson	3-wheel	***
	4-wheel	***

Melex does not produce a gas car, however E-Z-Go and Harley-Davidson do. In 1977, the weighted average price of a domestic 3-wheel gas car was * * * higher than the weighted average price for a U.S. 3-wheel electric car. However, in 1978, there was only a * * * difference, and by 1979, the weighted average price of a U.S. 3-wheel electric car was * * * higher than for the 3-wheel gas car. The average unit price increases for E-Z-Go's and Harley-Davidson's 3-wheel gas cars during the period 1977-79 were * * * percent and * * * percent, respectively.

Yamaha imports both a 4-wheel electric car and a 4-wheel gas car. The gas car was introduced in 1978 and the electric car in 1979. The first price data available on the electric car is for April 1979. When this price was adjusted and compared with weighted average unit prices for domestic models of the 4-wheel electric car in April-June 1979, the price of the Japanese car was 5.6 percent higher than the weighted average domestic price. However, when prices were compared again for October-December 1979, the adjusted price of Yamaha's electric car was only 0.9 percent higher than the weighted average unit price for the comparable domestic product.

Lost sales

In the course of this investigation, only one U.S. producer of golf cars, * * * has alleged specific instances when sales or leases were lost due to the lower price of Melex cars. This company presented 67 such allegations at 64 golf courses or country clubs. These allegations can be divided into two categories--one in which similar products were offered (e.g., a Melex 3-wheel electric car and a * * * 3-wheel electric car) and another in which different products were offered (e.g., a Melex 3-wheel electric car and a * * * 4-wheel electric car).

There were 25 allegations of lost sales amounting to 869 units valued at * * * where similar cars were offered. These are presented in table 17. The most significant year for these allegations was 1977 when allegations of lost sales amounted to 306 units valued at * * *. In 1979, the allegations covered 165 units valued at * * *. In 1977 and 1978, the 3-wheel car was the more competitive product. Allegations of sales lost to the 3-wheel Melex car accounted for more than 70 percent of total allegations of lost sales in which similar products were offered in 1977 and 100 percent in 1978. However, sales lost to the Melex 4-wheel car accounted for 82 percent of total allegations of lost sales in which similar products were offered in 1976 and 64 percent in 1979.

Table 17.--Golf cars: * * * allegations of lost sales in which similar products were offered, by types of car, 1976-79

Type	1976	1977	1978	1979
	Quantity (units)			
3-wheel electric	30	214	233	60
4-wheel electric	135	92	0	105
Total	165	306	233	165
	Value (1,000 dollars)			
3-wheel electric	***	***	***	***
4-wheel electric	***	***	***	***
Total	***	***	***	***

There were 32 allegations of lost sales where * * * offered a different type of car than that offered by Melex. These allegations amounted to 1,456 units valued at * * * million. The total quantity and value are shown in the following tabulation, by years:

	Quantity (units)	Value (1,000 dollars)
1976	911	***
1977	1,186	***

In this case, the most significant year was 1976 when it was alleged that 911 units valued at * * * million were lost to Melex cars. * * * Strictly speaking, since a different type of golf car was offered by * * * than that which was supposedly purchased and since most golf courses or country clubs have a distinct preference for a certain type of car, these allegations cannot be construed as sales lost by * * * because of price. However, in the situation in which the sale was made, the Melex car was more than likely competing with a variety of domestic models since golf car sales are generally made on the basis of a number of bids. Therefore, in some of these instances, a U.S. producer other than * * * may have lost the sale to Melex because of price considerations.

In addition, there were 10 allegations of lost leases accounting for 610 golf cars in which Melex cars were supposedly chosen instead of * * * cars because better terms were offered. Lost revenues cannot be assesed, because in many cases, the terms of the lease are based on a 50/50 or 55/45 split between the golf course and the dealer of the revenue earned by the golf car.

To date, the staff has been able to obtain a definite response to 58 of the allegations of lost sales or leases. In 16 instances, the golf course or country club did not purchase or lease Melex cars during the period cited in

the allegations and, for the most part, had never purchased or leased Melex cars. Many establishments had purchased * * * cars and several had purchased or leased * * * cars. One golf course had purchased * * * cars.

In 42 instances, the golf course or country club contacted had purchased or leased Melex cars. However, 18 firms indicated that in choosing the Melex car, their primary consideration was either the quality of the car or the service provided by the dealer and that price was not a factor per se. In seven cases, the firm indicated that while price was a factor in making their decisions, it was only one of several considerations. These firms stated that in making their decision to purchase or lease Melex cars, the quality of the car and the service provided by the dealer were considered at least as important as price, if not more so. The staff confirmed 17 instances where a golf course or country club actually purchased or leased Melex cars primarily because of the price or the terms offered. From 1976 to 1979, lost sales amounted to 459 cars valued at * * * In 1976, 4 firms purchased a total of 140 3-wheel Melex cars, thus causing lost revenues of * * *. * * * had offered 4-wheel electric cars in each instance. In 1977, * * * offered a similar type car at 4 firms, but lost sales of 175 cars valued at * * *. The same year, * * * also lost a sale of 65 4-wheel electric cars valued at * * *, when a firm purchased the lower priced Melex 3-wheel car. In 1978, two firms accounted for lost sales of 28 cars valued at * * *. In 1979, two firms purchased 51 Melex cars, thus causing estimated lost revenues of * * *. From 1976 to 1978, * * * also lost 4 golf car leases involving 255 cars, because the terms offered by the Melex dealer were more favorable. In total, confirmed golf car sales lost because of price amounted to 20 percent of * * * alleged lost sales. Confirmed golf car leases lost because of more favorable terms amounted to 42 percent of * * * alleged lost leases.

APPENDIX A

NOTICE OF COMMISSION'S INVESTIGATION AND HEARING

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

ELECTRIC GOLF CARS FROM POLAND

Notice of Receipt of Application for Review of Determination of Injury
Under the Antidumping Act, 1921, as Amended,
and Request for Public Comments

The United States International Trade Commission is in receipt of an application for review of its determination of injury in Electric Golf Cars from Poland, investigation No. AA1921-147 under the Antidumping Act, 1921, as amended. On September 16, 1975, the Commission, Commissioner Moore dissenting, determined that an industry in the United States is being injured by reason of the importation of electric golf cars that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

The instant application for review is brought by Melex USA, Inc., ("Melex") pursuant to section 207.5 of the Commissions's Rules of Practice and Procedures (19 CFR 207.5). Melex alleges that changed circumstances exist which indicate that, if the finding of dumping issued by the Secretary of the Treasury were modified or revoked, an industry in the United States would not likely be injured, or be prevented from being established, by reason of the importation into the United States of golf cars from Poland at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Melex, therefore, requests that the Commission institute an investigation concerning the review of its September 16, 1975, determination in investigation No. AA1921-147.

received from five interested persons. On the basis of the application and the public comments, the Commission, by action of January 30, 1980, voted to institute an investigtion pursuant to section 751 of the Tariff Act of 1930 and section 207.45 of the Rules of Practice and Procedure.

PUBLIC HEARING ORDERED: A public hearing in connection with the investigation will be held on Wednesday, April 16, 1980, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street, N.W., Washisngton, D.C. 20436, beginning at 10 a.m., e.s.t. Requests to appear at the public hearing should be filed in writing with the Secretary to the Commission not later than close of business (5:15 p.m., e.s.t.), Friday, April 11, 1980. For further information, consult the Commission's Rules of Practice and Procedure, Part 207, Subpart C (44 FR 76457), effective January 1, 1980.

PREHEARING STATEMENTS: The Commission will prepare and place on the record by March 27, 1980, a staff report containing preliminary findings of fact. Parties to the investigation will submit to the Commission a prehearing statement by April 11, 1980. The content of such statement should include the following:

(a) exceptions, if any, to the preliminary findings of fact contained in the staff report,
(b) any additional or proposed alternative findings of fact,
(c) proposed conclusions of law,
(d) any other information and arguments which a party believes relevant to the Commission's determination in this investigation; and
(e) a proposed determination for adoption by the Commission.

WRITTEN SUBMISSIONS: Any person may submit to the Commission on or before the prehearing statement any written statements of information pertinent to the subject matter of the investigation. A signed original and nineteen true copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidental submissions must conform with the requirements of section 201.6 of the Rules of Practice and Procedure (19 CFR 201.6). All written submissions except business confidential data, will be available for public inspection.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas St. Maxens, U.S. International Trade Commission, (202) 523-0339.

By order of the Commission.

Kenneth R. Mason
Secretary

Issued: February 5, 1980

APPENDIX B

NOTICE OF COMMISSION'S RECEIPT OF APPLICATION FOR REVIEW OF DETERMINATION OF INJURY . . . AND REQUEST FOR PUBLIC COMMENTS

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

[19 CFR, Part 207]

Investigation No. AA1921-147A

ELECTRIC GOLF CARS FROM POLAND

Notice of Investigation and Hearing

AGENCY: U.S. International Trade Commission

ACTION: Initiation of an investigation under section 751 of the Tariff Act of 1930.

SUMMARY: This action initiates an investigation under section 751 of the Tariff Act of 1930 to determine whether changed circumstances exist which indicate that an industry in the United States would not be threatened with material injury if the antidumping finding concerning Electric Golf Cars from Poland were revoked (40 F.R. 53383).

On September 16, 1975, the Commission determined that an industry in the United States is being injured by reason of the importation of electric golf cars that are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921. An application for a review of this determination was filed with the Commission by Melex, USA, Inc., an importer of the subject product, on August 6, 1979, in accordance with the then extant Rules of Practice and Procedure. The Commission published a notice in the Federal Register inviting public comment on the question of whether the Commission should conduct a review of the determination. Public comments were

The final action of the Secretary of the Treasury in investigation No. AA1921-147 was taken on November 18, 1975 (40 F.R. 53383). Section 207.5(c) of the Commission's rules provides that "in the event that two years have elapsed since the final action of the Secretary of the Treasury, the Commission shall publish a notice of having received an application for review in the Federal Register, inviting public comments on the question of whether the Commission should conduct a review." (19 CFR 207.5(c)). Public comments, therefore, are requested as to whether the Commission should conduct the review which Melex has requested. Comments should be in writing and should be directed to the Secretary, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436. Comments will be considered by the Commission if received no later than 30 days following the date of publication of this notice in the Federal Register.

Copies of the nonconfidential version of the application of Melex USA, Inc., for institution of an investigation pursuant to 19 CFR 207.5 to review the Commission's determination under section 201(a) of the Antidumping Act, 1921, as amended, in Electric Cars From Poland (investigation No. AA1921-147), and the Commission's report in investigation No. AA1921-147 (USITC Pubication No. 740) are available for public inspection in the Office of the Secretary of the Commission.

By order of the Commission.

Kenneth R. Mason
Secretary

Issued: October 2, 1979

APPENDIX C

LETTER FROM THE U.S. DEPARTMENT OF COMMERCE

UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

MAY [illegible] 1980

Honorable Catherine Bedell
Chairman, International
Trade Commission
Washington, D.C. 20436

Dear Chairman Bedell:

I am writing in response to your letter of February 12, 1980, in which you request current pricing information concerning electric golf cars from Poland, and advice as to whether, if the finding of dumping were revoked, there would likely be sales of such golf cars at less than fair value within the meaning of Title VII of the Tariff Act of 1930.

Current contract prices for sales to the United States of Polish 3 and 4 wheel golf cars are *** and *** respectively, CIF, landed, duty paid. Certain deductions for ocean freight, insurance, inland freight, etc. must be made from these contract prices to arrive at Purchase Prices for the purpose of the Anti-dumping Act. In order to err on the side of caution, such deductibles have been overstated to arrive at lowest possible Purchase Prices of *** and ***.

The Foreign Market Value against which the Purchase Prices are to be compared will be the constructed value of the golf cars. For purposes of this constructed value the actual Polish manufacturing experience will be utilized. To these Polish production factors (i.e. raw materials, labor hours, utilities, etc.) will be applied values and costs in a free-market-economy country of economic development comparable to Poland. Spain has been selected for costing purposes. An independent consulting firm has developed such cost information based on December 1977 prices. These prices have been inflated by Spanish price indices available through September, 1979 and result in no sales below fair value. Price indices are not available for September 1979 through May 1980. However, a prudent estimate of an 8% inflation rate for that period would result in estimated Foreign Market Values of *** and *** for the three and four-wheel golf cars. A comparison with Purchase Prices of *** and *** results in no sales below fair value.

As price information contained in this letter has been accorded confidential treatment, you are requested not to further disseminate it without prior authorization by this office.

Please feel free to contact my office if I can be of any further assistance.

Sincerely,

John D. Greenwald
Deputy Assistant Secretary for
Import Administration